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House of Representatives

The House met at 9 a.m.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH) for 5 minutes.

TRIBUTE TO BEN JEFFERSON: VETERAN, LEADER, CITIZEN

Mr. HAYWORTH. Mr. Speaker, it is my sad duty to inform this House and the people of Arizona of the passing of the Veterans Affairs Coordinator for the people of the Fifth Congressional District of Arizona, Ben Jefferson. Ben lost his battle with leukemia at 1 o'clock a.m. Arizona time Monday. Mary and I were privileged to be with Ben Sunday afternoon prior to his passing, and we reflect back on a remarkable life of service.

Mr. Speaker, too often what we do is described as public service. That is an honor and an accolade, but ultimately it is somewhat inaccurate, for what we are involved in is public office. But public service is a dimension that does not require election to office; it instead requires a spirit of servanthood, and that spirit of service sums up the life of Ben Jefferson.

Ben moved to Phoenix as a very young boy from Louisiana. He saw Phoenix grow, and, as he grew, so too did that responsibility of service, made manifest by a career in the Navy, a career which saw him as a medical corpsman in Korea, which saw him again answer the call to duty in Vietnam, which literally took him around the world, even for a year's duty at the research station at the South Pole.

Ben had a heart for people. And how fortunate I was, and, indeed, Mr. Speaker, those of us who serve here are honored by one of the gratifying mysteries of running for public office, which is that good people cross your path, and, more amazingly, those good people are willing to donate their time and their energy and their enthusiasm, first to campaigns and then as support staff.

So it was for Ben Jefferson. After a career in the Navy, after a career in business, stepping forward first in a campaign, and then assuming a role that he prepared for throughout his life, that of service to our Nation's veterans and the important role that the military plays, not only for retirees, but for those young people who aspire to attend a service academy.

It was Ben Jefferson who put together the groups for the Army and the Navy and the Air Force, who would review the candidates and candidacies of those who aspire to attend our Nation's academies. Ben Jefferson would be along my side when I would have one of the most gratifying experiences any Member of this House can have, when you call a young person and their family to inform them that they have been accepted at one of our military academies.

The same Ben Jefferson would take calls from veterans who had questions about their benefits, veterans who needed help at the hospital, veterans who had fallen on hard times, and always Ben Jefferson was willing to help.

We celebrate his life, even as we mourn his passing, his wife, Bette, his children, his relatives who will gather in Arizona later this week to remember this remarkable man.

At one point in his life he thought he would be called into the ministry. But it turned out his ministry was not from the pulpit, it was not as a pastor per se. Instead, in the spirit of James in the New Testament, it was not wrapped up in talk and good wishes, it was service and action and stepping forward to help people. Indeed, Mr. Speaker, on what became his deathbed, Ben Jefferson spoke about constituents in need and friends who faced similar challenges of disease, always in a spirit of what can I do to help?

In those last minutes when Mary and I were with Ben and with his wife Bette and with other loved ones, I could not help but reflect on the words I think he has heard by now: ''Well done, good and faithful servant.''

Ben Jefferson: Veteran, leader, citizen. We will always remember you and all you did for the people of Arizona.

ENDING LAWSUIT ABUSE

The SPEAKER pro tempore (Mr. CARTER). Pursuant to the order of the House of January 20, 2004, the gentleman from Texas (Mr. DELAY) is recognized during morning hour debates.

Mr. DELAY. Mr. Speaker, frivolous, parasitic lawsuits are a clear and present danger to the economic health of the United States. They clog our courts, generate billions of dollars in administrative fees, artificially raise insurance premiums, kill jobs, stifle investment and innovation and otherwise produce little else for American society but headaches and lawyer jokes.

It has been and remains a principle of the Republican congressional majority to rein in trial lawyers and their predatory, self-serving litigation, thereby protecting American jobs and companies from their crippling effects.

The pestilent culture of hyper-litigation now corrupting our legal system may be championed in the name of ''the little guy,'' but the only thing little about its true beneficiaries is their

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shame. Plaintiffs and defendants are merely a means to an end for the trial lawyers, who get fat off the pain of one group or the hard work of the other.

The time for reform is now, Mr. Speaker, and this week, the House will continue its long-term strategy of taking back America's legal system from the ''Lords of the Ambulance Chase.''

Today we will take up four bills to rein in lawsuit abuse. We will pass bills specifically protecting interscholastic sports organizations from lawsuits concerning their athletic rules; protecting volunteer firefighters from lawsuits that discourage generous Americans from donating equipment to them; and protecting volunteer pilots who come to the aid of their communities in times of crisis. And more comprehensively, Mr. Speaker, we will take up legislation presented by the gentleman from Texas (Mr. SMITH), the Lawsuit Abuse Reduction Act, which will impose mandatory penalties on those who file frivolous lawsuits.

This bill will also prevent clever lawyers from shopping around for favorable judges and venues wholly unrelated to the case, it will remove the ''free pass'' provisions in the Federal Rules of Civil Procedure that many lawyers hide behind once their claim is exposed as a farce, and it will better hold lawyers accountable for their behavior during the discovery process.

In short, Mr. Speaker, these bills together will further help take back the judicial system for legitimate plaintiffs, real defendants, principled lawyers who serve the ideals of their honorable profession, our national economic health, and, finally, for justice itself.

PROPOSING A TEMPORARY MEMORIAL IN THE CAPITOL ROTUNDA

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Illinois (Mr. EMANUEL) is recognized during morning hour debates for 5 minutes.

Mr. EMANUEL. Mr. Speaker, last week we passed the 1,000th casualty mark in Iraq. Since then, we have lost another 12 of our fellow citizens in service to their country and its ideals. 1,012 American families are grieving the loss of their loved ones; 1,140 when we count the theater of Afghanistan and its conflict.

Mr. Speaker, we salute our Soldiers, Marines, Airmen, Sailors, Reservists and Guardsmen called to duty. We thank them deeply for their service and their sacrifice and that of their families. We must honor their service and pay tribute to their heroism.

For these reasons, the gentleman from Texas (Mr. TURNER) and I have written a letter to the Speaker asking that the Capitol Rotunda be used for a temporary memorial to honor the troops from Iraq and Afghanistan.

This memorial would display pictures of each fallen soldier, along with biographical information, and would give visitors to the Capitol Rotunda, the People's House, an opportunity to pay tribute to the troops. They could write notes, letters, anything they want to the families, so they know in this time that they have the thoughts and the prayers of their fellow countrymen.

I have done this outside my office as an individual gesture, as the gentleman from North Carolina (Mr. JONES), a colleague of mine from the other party, has done outside his office, so you could write a note, you could write a card, some way to let this family know, whether they are from your State or not, that in this moment of pain and grief they are not alone; they have the thoughts and the prayers of their fellow countrymen.

The gentleman from North Carolina (Mr. JONES) is from the other party. This is not a Democrat or Republican issue, it is not whether you were or were not against the war; it is a way of paying respect.

Throughout our history, the Rotunda has been used for public viewing of our fallen heroes, bestowing upon them one of our Nation's highest honors. After World War I, we saluted fallen soldiers in the Rotunda. For World War II, Korea and Vietnam, we did the same. It is only fitting that we use the Capitol Rotunda to honor those who have fallen in Iraq and Afghanistan.

The war in Iraq is not over, and there will certainly be more lives lost, unfortunately. But this tribute is for all Americans, to show their respect for the men and women who paid the ultimate sacrifice, as well as to their families.

I do not often agree with President Bush, but I do agree with the sentiment he expressed in his Saturday radio express. ''Since September 11, the sacrifices in the War on Terror have fallen most heavily on members of our military and their families. Our Nation is grateful to the brave men and women who are taking risks on our behalf at this hour, and America will never forget the ones who have fallen, men and women last seen doing their duty, whose names we will honor forever.''

I agree with the sentiments expressed by President Bush, and I hope that the Speaker and the Republican leadership would take up those sentiments and do a temporary memorial. I am now doing it outside my office. The gentleman from North Carolina (Mr. JONES), as I mentioned, is doing it outside his office. I would ask that it no longer be an individual gesture, but it be an institutional gesture of that sentiment that the President expressed Saturday in his radio address.

Mr. Speaker, since this Congress convened, we have found time to name no less than 70 post offices, and we named another one just yesterday. I think we can, indeed, it is our duty and responsibility, find the time to properly honor those who have sacrificed everything in Iraq and Afghanistan.

Mr. Speaker, this tribute was initiated by an individual Member of the House. We should make an institutional decision today in the People's House to expand it to an institutional gesture for all people who come to the People's House to remind those families that they have our love, our respect, our prayers and our thoughts in this time.

I hope that all this body will join me in saluting their families.

DRUG IMPAIRED DRIVING ENFORCEMENT ACT OF 2004

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Indiana (Mr. SOUDER) is recognized during morning hour debates for 5 minutes.

Mr. SOUDER. Mr. Speaker, I would like to talk briefly about H.R. 3922, the Drug Impaired Driving Enforcement Act of 2004 that the gentleman from Ohio (Mr. PORTMAN) introduced in this House earlier this year, along with the gentleman from Michigan (Mr. LEVIN), the gentleman from Ohio (Mr. LATOURETTE) the gentleman from Minnesota (Mr. RAMSTAD) and myself.

Mr. Speaker, we often hear about drunk driving, but we have not heard enough about drug-impaired driving. Let me read some of the findings in this bill.

Driving under the influence of or after having used illegal drugs has become a significant problem worldwide. 35 million persons in the United States age 12 or older had used illegal drugs this past year, and almost 11 million of those persons age 12 or older and 31 percent in the past year had driven under the influence of or after having used illegal drugs.

This is a sobering thought when you are driving down the highway. Not only may somebody be high on alcohol, but they may be whacked out on drugs, and they may be combining the drugs, alcohol and illegal drugs to put you and your family at risk.

According to the National Highway Traffic Safety Administration, illegal drugs are used by approximately 10 to 22 percent of all drivers in motor vehicle crashes. In other words, when we talk about what the problems are on the road, we have to have illegal drugs in that mix.

Across the country, we do not have in many cases the ability to detect or prosecute, because we do not have the detection, the use of illegal drugs in automobile wrecks, particularly in higher incidence most likely of deaths than even other types of automobile wrecks. Too few police officers have been trained, and there is lack of uniformity and consistency in State laws.

What this bill would do is provide grants and money to the different States for model legislation on how to do drug-impaired driving statutes, to ensure drivers in need of drug education or treatment are identified and

provided with the appropriate assistance, to advance research and development of testing mechanisms and knowledge about drug driving and its impact on traffic safety, and to enhance the training of traffic safety officers and prosecutors to detect, enforce and prosecute drug-impaired driving laws. I hope that each Member of Congress will sponsor this bill and that we can move this bill, if not as part of the larger transportation will, as a free-standing bill.

I also wanted to call attention and will include in the RECORD this article about a DEA exhibit that highlights, among other things, the drug-impaired driving accidents. This was in USA Today yesterday, September 13, 2004, about an exhibit that is opening in One Times Square, New York City, today. It will be a three floor exhibit on the perils of drug use and what it is doing to devastate American youth, adults and people in our country, as well as around the world. The exhibit also links terror and drug traffic.

The picture here shows an automobile obliterated in a wreck, I believe in Ohio, a 1994 Ford Thunderbird, whose driver killed a woman and just obliterated the car.

We have had multiple deaths in my hometown because of drug-impaired driving, even though we have a very limited ability to test. It has been clear that the marijuana in particular has been the primary culprit. We have had multiple deaths related to meth, and in addition kids using that and taking other kids out. We even had a couple of grizzly murders where it appears the kids were either after the Ecstasy or some other drug, at the very minimum, marijuana.

In this DEA exhibit, among other things, in addition to the display regarding the automobile wrecks and the deaths due to drug-impaired driving, on the third floor they have a ''Wall of Lost Talent,'' a display of prom, graduation and school photos of those who have died because of drugs. Visitors are encouraged to leave photos of friends and family members who have been harmed by drugs as well.

Karen Tandy, the Director of DEA, said, ''I want Americans to realize that although they may not use drugs, everyone is impacted by drug use in this country. That car,'' and she is referring to the devastated car that caused the deaths, ''represents the threat to every one of us on the road.''

I am glad that the DEA administrator and the DEA is taking the message out to the general public that drug use is not just something you do at home on your own or a recreational-type thing. When you use drugs and you get behind the wheel, you are putting everybody else on the road at risk.

Mr. Speaker, I chair the Subcommittee on Criminal Justice, Drug Policy and Human Resources of the Committee on Government Reform, and what we have heard in testimony after testimony after testimony is not only when you go out on the road, but even in the home, is of young kids terrorized by their parents, who come home and beat them or just ignore them but use up their food money. This article also links the terrorists to drug money and much destabilization in other countries.

Mr. Speaker, it is very important that the DEA has done this, and it is very important that we pass the legislation in the House.

[From the USA Today, Sept. 13, 2004]

EXHIBIT LINKS TERROR, DRUG TRAFFIC

(By Donna Leinwand)

NEW YORK.—The crumpled green 1994 Thunderbird is a jarring sight in the lobby of One Times Square. The driver, DEA agents say, was high on cocaine, barbiturates and marijuana when he hit and killed a 31-year-old Ohio woman. The man is serving 10 years.

The car is the opening assault in an exhibit meant to lay bare the harsh world of illicit drugs from the intensely personal car accident to the global financing of rebel armies and terrorists.

Target America: Drug Traffickers, Terrorists and You is an expanded version of a Drug enforcement Administration Museum traveling exhibit that opens here Tuesday.

The exhibit, housed in three floors of borrowed space, is designed to illustrate through graphic photos and artifacts the societal costs of the production, trafficking and use of illegal drugs.

''I want Americans to realize that, although they may not use drugs, everyone is impacted by drug use in this country,'' DEA administrator Karen Tandy says. ''That car represents the threat to every one of us on the road.''

The car is the centerpiece of a field of debris piled in the lobby of the tall retail-and-office building. The wreck is surrounded by drug paraphernalia and barrels of chemicals used to make methamphetamine, as well as broken toys representing children neglected by drug-addled parents.

The overriding theme of the exhibit, visible from Times Square through plate-glass windows, is the link between drug trafficking and global terrorism.

The exhibit invites visitors to trace the path of cocaine and heroin from drug labs in Afghanistan and Colombia to the pockets of insurgents in Colombia and Peru and to such terrorist organizations as Hezbollah.

But it also makes a more controversial link between terrorism and the 9/11 attacks on the World Trade Center and the Pentagon. The exhibit includes a large display of debris collected from both sites. The exhibit does not specifically tie the attacks to drug trafficking, but it uses the events to explain how terrorists use the drug trade as one of several methods to fund attacks. It cites U.S. intelligence linking the Taliban in Afghanistan, and by extension its thriving heroin economy, to Osama bin Laden and al-Qaeda.

''Someone who thinks he or she is making an individual choice that won't harm anyone else is not seeing the larger picture of where their money eventually goes,'' says Anthony Placido, special agent in charge of the New York division of the DEA.

In Peru, for example, Shining Path insurgents ''killed thousands of people, destroyed the economy, reduced the country to rubble, and paid for it all with the cocaine trade,'' Placido says.

After 9/11, Americans shifted their focus from the war on drugs to the war on terror, Placido says. The exhibit, he says, will help relate the illicit drug trade to homeland security.

''The same techniques used to smuggle in drugs can be used to smuggle in weapons of mass destruction,'' Placido says. Terrorists and drug criminals ''fish out of the same sewer.''

Although the exhibit includes the events of Sept. 11, it takes a broader look at the drug trade, tracing its history from the Silk Road routes between China and Europe, says Sean Ferans, director of the exhibit and also the small DEA museum in the agency's headquarters in Arlington, Va.

The Times Square exhibit is loaded with whiz-bang law enforcement memorabilia. Visitors can beep into an actual cocaine lab uncovered by DEA agents in Colombia, dismantled and shipped to the USA; a Stinger missile launcher; heroin tax receipts from the Taliban; Ecstasy pills; and photos of arrested drug kingpins.

On the second floor, visitors will see a replica of a crack den cluttered with soiled diapers and guns. There are photographs of children rescued from their parents' meth labs, including one who was covered in car battery acid.

A ''Wall of Lost Talent'' is a display of prom, graduation and school photos of those who have died because of drugs. Visitors are encourage to leave photos of friends and family members who have been harmed by drugs.

Parts of the exhibit have traveled to other cities, including Dallas and Omaha. Sections may go on the road again; no schedule has been set. In New York, hours are 9 a.m. to 8 p.m. daily through January. Information: www.usdoj.gov/dea/deamuseum/website/index.html.

Admission is free.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 21 minutes a.m.), the House stood in recess until 10 a.m.

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AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. OSE) at 10 a.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, as people loyal to diverse faith perspectives and hoping to be consistent in the commitment to serve the common good of the Nation, we pray today for the Members of the House of Representatives.

Lord, grant wisdom to the leaders of this Government by the people. We hear, ''You, O God, give wisdom generously without finding fault to all who ask.''

You provide people of faith with values, standards and principles. These need to be applied with human wisdom to specific events and recognized challenges of the times. You sustain believers, particularly in critical moments, that they may discern the real importance of needs and events and be able

to deal with times of adversity with a certain calmness and deepening hope.

For You are our saving Lord now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Arizona (Mr. HAYWORTH) come forward and lead the House in the Pledge of Allegiance.

Mr. HAYWORTH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

TWO QUESTIONS FOR DAN RATHER

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, earlier this morning, I came to this well reflecting on the difference between holding public office and being engaged in public service. Public office is not a prerequisite for public service. Neither, Mr. Speaker, is public office a prerequisite for holding the public trust.

It is in that spirit that I again come to the well to cite apparently falsified documents utilized by CBS News in portraying the service record in the Texas Air National Guard of our Commander in Chief.

Mr. Speaker, two questions need to be answered: What did Dan Rather know, and when did he know it?

Understand, we believe in the first amendment; Congress shall make no law abridging the freedom of the press. All we ask, Mr. Speaker, is that Dan Rather answer those two questions.

SUPPORT NEW TRANSPORTATION FUNDING

(Ms. WATSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON. Mr. Speaker, America's roads are coming to a standstill because of ever-increasing congestion. The latest research shows that the average American wastes almost 2 full days a year in traffic. Measured in dollars, the cost of congestion is now $63 billion per year. My own hometown of Los Angeles is again ranked as the most congested city in America, with congestion delays and costs twice the national average.

With this congestion causing such a drag on our economy, the American public might expect their Congress to be rushing to resolve such a problem. But we are now almost 2 years past the deadline for passing a new transportation bill, and the administration is still blocking Congress from passing new transportation funding. The issue is, as always, money. The President, after having racked up the largest deficits in American history, is fighting to block this needed investment in roads and transit.

Mr. Speaker, my constituents are as fed up with government gridlock as they are with freeway gridlock. America needs transportation relief now.

TERROR ATTACKS ON AUSTRALIA WILL NOT DETER WAR ON TERROR

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, last week, al Qaeda-linked terrorists savagely attacked the Australian embassy in Jakarta, Indonesia. The blast killed nine and wounded more than 180 innocent people, most of whom were Muslims. Australian Prime Minister John Howard properly responded by saying, ''This is not a nation that is going to be intimidated by acts of terrorism. We are a robust, strong democracy.''

Indeed, he is exactly correct. Free nations must never be intimidated by hate-filled extremists which will only lead them to commit more murderous acts. The only proper response to terror is to aggressively go on the offense as President Bush and coalition partners have done for the past 3 years. Instead of waiting for another attack, we need to bring justice to the terrorists wherever they are and hold terror-supporting regimes accountable.

Australia, Spain, Russia, Israel, America and many others have been attacked in a war started by radicals against the civilized world. Yet this campaign of fear will fail as nations who value freedom will continue to fight together to win the war on terror.

In conclusion, may God bless our troops, and we will never forget September 11.

IN SUPPORT OF DRUG REIMPORTATION

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, today, in The Washington Post, there was a story about a senior executive from Pfizer who announced that reimportation of pharmaceutical drugs was safe and could be worked out. Peter Rost, vice president of marketing for the pharmaceutical company Pfizer, publicly announced his support for drug reimportation.

In addressing the issue of safety, which the pharmaceutical companies continue to raise as their main concern with reimportation, I want to quote this executive from Pfizer, ''This has been proven safe in Europe. The real concern about safety is about people who do not take drugs because they cannot afford it. The safety issue is a made-up story.'' This, from an executive in Pfizer Corporation.

Mr. Speaker, today seniors are traveling to Canada and buying their medications there where they save up to 40 to 50 percent. Kaiser Foundation found that 29 percent of seniors had not filled prescriptions because they could not afford them.

The issue of safety is a hoax, and when somebody tells you it is not about money, folks, it is about money. It is time we do right by the American seniors and taxpayers.

CONGRATULATING THE FIRST BAPTIST CHURCH OF GARLAND

(Mr. HENSARLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENSARLING. Mr. Speaker, today, I would like to welcome Dr. Greg Ammons to Garland, Texas, as the new pastor of the First Baptist Church.

The First Baptist Church of Garland was founded in 1868. They currently have over 3,500 active members and offer countless mission and service opportunities for their members to help serve the community.

The First Baptist mission statement reads, ''To know Jesus and make him known.'' I can tell you that, through their faith and through their dedication to service, they are living up to that statement and doing the Lord's work in the Garland area.

Today, I would like to offer my heartfelt welcome and prayers to Dr. Ammons, his family and his entire congregation at the First Baptist Church. I know firsthand that the members are very excited to have Dr. Ammons, Lisa and young Camden join their congregation.

May God continue to bless Dr. Ammons, the First Baptist Church of Garland, and may He continue to bless the United States of America.

THE PRESIDENT'S BUDGET RECORD

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, there is a certain humor in the Bush attacks on Senator KERRY's budget plans. The Bush administration, after all, has the most reckless fiscal management in our Nation's history. It has produced the largest deficit, after turning the largest budget surplus that they inherited into a sea of red ink.

His prescription drug Medicare program hid the true cost even from Republicans in Congress. His proposal to

privatize Social Security, all independent observers indicate, will cost at least $2 trillion.

While he wastes money on missile defense, he is shortchanging homeland security, all the while proposing more tax cuts for people who do not need them while ignoring the needs of those who do. No wonder he wants to talk about JOHN KERRY's fiscal proposals. His record is indefensible.

EBAY PART OF 21ST CENTURY ECONOMY

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, last week, we had a great statement made by Vice President CHENEY talking about the new 21st century vibrant economy. He pointed to the fact that there are, in this new economy, 430,000 Americans who make their income, their living, selling on eBay. They are entrepreneurs.

Over the weekend, there were a number of pundits who criticized him, saying, Well, because of the slow economy, that Vice President CHENEY was advocating that people go down and find something in the basement and sell it on eBay, and that will take care of them.

The fact of the matter is, that is not what he was saying. He was talking about an industry that did not exist 10 years ago; eBay did not even exist. Today, we have got nearly half a million Americans earning their living on eBay. Frankly, if you look at the number of people who are selling things on eBay, it is in the millions.

So, Mr. Speaker, it is important for us to acknowledge that this administration and this Congress are helping us build and expand in this new 21st century economy.

THE REPUBLICANS HAVE LOST THEIR WAY

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, what were they thinking? The Republicans that control this House look at our economy and the job losses, the declining wages and rising cost of health care, and you know what they think the problem is? That the people are earning too much overtime pay. So they decided to cut it for 6 million American families.

They look at jobs going overseas, and do you know what they think the problem is? They do not think there are enough jobs going overseas, so they continue to vote for tax credits to help companies send jobs overseas rather than create them at home.

And they look at crime in America, and do you know what they think the problem is? That there are not enough guns and assault weapons on our streets, so they let the assault weapons ban expire and want to end the gun ban in the District of Columbia.

They look at the cost of pharmaceuticals, and they decide that they are not as expensive as the senior citizens in this country find them. So they decide they are not going to let them go to Canada. They are not going to let them reimport drugs from overseas to cut the cost of drugs. Rather, they are going to prosecute them and the governments, cities and counties that are trying to help those individuals have affordable drugs.

They have lost their way.

CONSTITUTION RESTORATION ACT PROMISES FREEDOM OF RELIGION

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, the American Congress in 1776 adopted a Declaration of Independence which asserted the belief that we are endowed by our creator with certain inalienable rights. In fact, the Congress that adopted the first amendment and its freedom of religion clause also established the chaplaincy and the practice, as we saw today, of opening this House in prayer.

Nevertheless, over the past 42 years, since the famous prayer in school cases, our Federal courts have showed increased hostility toward the acknowledgement of God in the public square. But as we heard yesterday before the Judiciary subcommittee, Congress can finally do something about it.

The Constitution Restoration Act simply put, Mr. Speaker, would use article III powers to deny the Federal courts jurisdiction over any case where the action is brought because a public official simply acknowledges God.

Let us restore that basic freedom of religion in the public square, the acknowledgment of God that our founders so cherished and enshrined in this institution. The freedom of religion must never become the freedom from religion. Let us pass the Constitution Restoration Act in this Congress.

AMERICA NEEDS A LEADERSHIP TRANSPLANT

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, among all the chaos and the economy and Iraq, the administration is bellowing these days about tort reform. It is the solution to a national health care crisis, they shout. That is the closest thing to a perpetual motion machine and just as phony.

Tort reform is a smoke screen by the administration to cover its own failure to do anything about the health care crisis. The administration squandered 4 years and did nothing on premiums, slamming Americans with double-digit increases year after year. Americans cannot find decent jobs. That is why millions do not have health care. Millions of other Americans with jobs cannot afford the premiums.

But the administration has to cover its tracks, so they launch a diversion against the lawyers, and they are blaming the other guy because JOHN KERRY actually has a health care plan.

The President has a plan. It is called more of the same; 4 more years of record profits for special interests; 4 more years of skyrocketing costs for the average American; 4 more years of failure; and a 17 percent increase for seniors.

America needs a leadership transplant, and surgery is set for the 2nd of November.

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THE 150TH ANNIVERSARY OF THE REPUBLICAN PARTY

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, this is the 150th anniversary year of the Republican Party. Over a century and a half, from the abolition of slavery to the establishment of women's suffrage, to the freeing of millions in the Soviet Empire and Afghanistan and in Iraq, the Republican Party has been the most effective political organization in the history of the world in advancing the cause of freedom.

So that all of us can learn more about the achievements of this fundamentally American institution in its 150th anniversary year, the House Republican Policy Committee has published the 2005 Republican Freedom Calendar. Each day of the year, the calendar lists an important milestone of the Republican Party's history of advancing freedom and civil rights in America.

It was on this day in 1901, 103 years ago, that America mourned the death of Republican President William McKinley, who established an impressive civil rights record. To show his support for African Americans, President McKinley defied Democrat protests to travel to Alabama and deliver an address at the Tuskegee Institute, which was founded by the celebrated African American Republican Booker T. Washington.

Mr. Speaker, the calendar is available on line at policy.house.gov.

BUSH PROPOSALS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, Republicans are at it again. President Bush yesterday attacked Senator KERRY's

budget plan; yet President Bush has presided over the biggest budget deficit in our Nation's history.

Now it appears all the domestic proposals President Bush listed off during his convention acceptance speech will cost $3 trillion over 10 years. That is at least $1 trillion more than the initiatives that Senator KERRY has proposed.

And despite this huge price tag, President Bush continues to deceive the American people by telling them that this can all be done without raising taxes on one single American. Over the past 4 years, we have gone from record surpluses to record deficits. It is because we have a man in the White House and leaders here in Congress who simply cannot balance a checkbook.

It is time for the President to level with the American people. He simply cannot afford all these new proposals without either raising taxes or increasing the deficit even more.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE). The Chair will remind all Members that remarks in debate may not engage in personalities toward the President or the Vice President, or the acknowledged candidates for those offices.

Policies may be addressed in critical terms. But personal references of an offensive or accusatory nature are not proper.

PROVIDING FOR CONSIDERATION OF H.R. 4571, LAWSUIT ABUSE REDUCTION ACT OF 2004

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 766 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 766

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 4571) to amend rule 11 of the Federal Rules of Civil Procedure to improve attorney accountability, and for other purposes. The bill shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) the further amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Turner of Texas or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for 40 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

The resolution before us is a well-balanced, modified closed rule that provides for 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill and provides that the bill shall be considered as read for amendment. The rule provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as adopted and also makes in order the amendment printed in the Committee on Rules report accompanying the resolution, if offered by the gentleman from Texas (Mr. TURNER) or his designee. This amendment shall be considered as read and shall be debatable for 40 minutes equally divided and controlled by the proponent and the opponent.

Finally, this rule waives all points of order against the amendment printed in that report and provides for one motion to recommit with or without instructions.

Mr. Speaker, I rise today in strong support of the rule for H.R. 4571, the Lawsuit Abuse Reduction Act of 2004, as well as the underlying legislation. This bill offered by the gentleman from San Antonio, Texas (Mr. SMITH), my good friend, is carefully constructed legislation that will create a disincentive for attorneys and plaintiffs to file many of the frivolous lawsuits that currently clog our court system and act as a drain on our Nation's economy.

Just 6 months ago almost to the day, I came to the floor to manage the rule for H.R. 339, the Personal Responsibility in Food Consumption Act. Later that day the House voted overwhelmingly by a vote of 267 to 139 to require courts to dismiss frivolous lawsuits seeking damages for injuries resulting from obesity and its intended health problems that are filed against the producers and sellers of food. Through passing this legislation today, we have another opportunity to help bring our tort system back to reality by amending the Federal Rules of Civil Procedure to impose greater attorney and client accountability for pursuing other frivolous or nuisance lawsuits.

Our current tort system costs American consumers well over $200 billion a year, the equivalent of a 5 percent tax on wages. Our courts today handle cases ranging from legitimate claims to those that are highly suspect and wasteful of time and resources. Some of these examples of lawsuit abuse include a woman in Knoxville, Tennessee, who sought $125,000 in damage against McDonald's, claiming a hot pickle dropped from a hamburger, burned her chin and caused her mental injury. Her husband also sued for $15,000 for loss of consortium. Or the case of the Girl Scouts of America in metro Detroit, who have to sell 36,000 boxes of cookies each year just to pay for their liability insurance. In fact, according to a former Girl Scout from the greater Philadelphia, Pennsylvania area, frivolous litigation is making it increasingly hard for them to even sell their cookies and their local convenience stores will no longer allow these girls to set up their booths anymore for fear of liability issues.

This economic drain, created by frivolous lawsuits on American productivity, is unacceptable and prevents the American economy from being as competitive as it should be with the rest of the world.

H.R. 4571 will help to discourage the filing of frivolous lawsuits by restating several important provisions to rule 11 of the Federal Rules of Civil Procedure that were changed in 1993 and add several new deterrents against baseless claims. In short, this legislation will make rule 11 sanctions against attorneys or parties who file frivolous lawsuits mandatory rather than discretionary. It will remove rule 11 safe harbor provisions that currently allow parties and their attorneys to avoid sanctions for making frivolous claims by withdrawing them within 21 days after motions for sanctions that have been filed. It implements a ''three strikes and you're out'' provision that would disbar any lawyer for at least 1 year that filed three frivolous lawsuits in Federal court. It allows for rule 11 sanctions for frivolous or harassing conduct during discovery, and it allows monetary sanctions, including attorney fees and compensation against a represented party.

The Lawsuit Abuse Reduction Act also provides new protections against frivolous lawsuits such as extending rule 11 sanctions to State cases that affect interstate commerce, and reducing forum shopping by requiring that a plaintiff in a civil tort action may sue only where he or she lives or was injured or where the defendant's principal place of business is located.

A recent poll found that 83 percent of likely voters believe that there are too many lawsuits in America and 76 percent believe that lawsuit abuse results in higher prices for goods and services. Another poll found that 73 percent of Americans support requiring sanctions against attorneys who file frivolous lawsuits, just as H.R. 4571 would do.

Small businesses, the engine of job growth in our economy, rank the cost and availability of liability insurance as second only to the costs of health care as their top priority, and both problems are fueled by frivolous lawsuits. A recent report by AEI-Brookings Joint Center for Regulatory Studies has concluded: ''The tort liability

price tag for small businesses in America is $88 billion a year'' and that ''small businesses bear 68 percent of the business tort liability cost but only take in 25 percent of the business revenue.'' The small businesses studied in this report account for 98 percent of the total number of small businesses with employees in the United States.

Mr. Speaker, I believe it is time for Congress to listen to what the average Americans say about frivolous lawsuits. It is time for us to hear the concerns of small businessmen and -women in our communities, along with consumers, who list frivolous lawsuits as one of their greatest impediments to success.

And it is time for us to get serious about encouraging economic growth, job creation, and international competitiveness by ending the practice that keeps our economy from thriving. The choice presented by this legislation is stark and clear and will demonstrate whether we support the frivolous actions of the trial lawyer and the drain that they place on the American economy or whether we support American workers and businesses.

I encourage all of my colleagues to stand up for our economy and for consumers by supporting this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks.)

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes.

Mr. Speaker, I rise in opposition to this rule and in opposition to H.R. 4571, the so-called Frivolous Lawsuit Protection Act.

Today the Republican leadership of this body continues willful disregard for the American public. Once again we are considering legislation in the shadow of the November elections, and once again the Republican leadership is catering to big business at the expense of the public good. And once again that leadership is squandering the House's limited time with foolish, misguided special interest legislation.

This is a bill that attempts to turn back the judicial clock by over a decade; and in the process, more pressing issues and priorities are ignored. Mr. Speaker, this simply is not needed.

Yesterday the Federal Assault Weapons Ban died at the hands of the Republican leadership. President Bush, who, during his first campaign, said he saw no reason for such weapons to be on the street, indicated on more than one occasion that he would sign a new bill if the Republican-controlled Congress sent him one. But the Republican leadership refused to bring the reauthorization up for a vote. I believe they prevented a vote to protect President Bush from having to sign or veto the reauthorization of the Federal Assault Weapons Ban. Why? Because doing the bidding of the gun lobby is their priority. Apparently the Republican strategy in homeland security includes defying law enforcement by making these military-style assault weapons more available.

□ 1030

Mr. Speaker, in addition to failing to act on the Federal assault weapons ban this week, the Republican leadership has scheduled zero time, that is zero time, to consider the 9/11 Commission's recommendations. The Commission took a hard and comprehensive look at the intelligence and homeland security needs of our country. They asked Congress to do its job, to take a hard look at the way this House organizes and carries out its works, ways that potentially undercut the security of our Nation and our people. Yet, today, in this House, it is business as usual, with special interest legislation on the House floor. Six weeks have passed since the Commission's report was first issued, and we still have no firm date as to when this House will take up legislation and debate the Commission's recommendations.

Will it be before Congress breaks for elections? Will we have to wait for another September 11 anniversary to come and go before we take up the Commission's findings? Or, like today, will this body continue to waste its time on frivolous legislation?

The Republican leadership in both parties of Congress has failed to pass a budget resolution, but we are not talking about that today. And today we begin one more legislative week without a transportation bill. We certainly are not working on a bill to increase the minimum wage, even though wages are stagnant and over 4 million Americans have fallen out of the middle class into poverty since George Bush became President. In fact, the Bush administration and the Republican Congress are on track to have the worst jobs record since the Great Depression, all the way back to Herbert Hoover. The average length of unemployment is at a 10-year high, and manufacturing employment remains at a 53-year low. Yet, this House does not seem to have the time to do anything to help the millions of Americans who have lost their jobs. No extension of unemployment benefits, no help for the millions of uninsured Americans, and certainly, no effort to reduce gas prices or lower the cost of college tuition, or pass a highway bill that might create good-paying jobs.

No, Mr. Speaker, we are not taking up legislation to address these issues today.

Mr. Speaker, if the American public wants real leadership on real issues, they should not look here for help. Indeed, this body is guilty of willful neglect of America's priorities. Why do we not work on a bill to help the millions of uninsured Americans? Over 70 percent of the uninsured live in households with at least one worker, and yet we sit idly by as more and more Americans work in jobs that provide little or no health care benefits.

Instead, here we are, taking up H.R. 4571, the so-called Frivolous Lawsuit Reduction Act, a bill that does nothing to address the real problems facing working families of America, yet does so much to help the special interests who fill the campaign coffers of the majority.

Among its provisions, H.R. 4571 would turn back the clock to the pre-1993 provision of Rule 11 of the Federal Rules of Civil Procedure, provisions that were changed on the recommendation of the Judicial Conference after years of study, approved by the U.S. Supreme Court, and reviewed by Congress in accordance with the Rules Enabling Act.

What will this bill change? The supporters of H.R. 4571 contend that it would help reduce frivolous lawsuits. That is what they say. But in reality, the bill would have a terrible effect on credible claims brought by families, workers, consumers, and senior citizens.

Without many of these civil lawsuits, the following changes in consumer products would likely never have occurred: The redesign of defective baby cribs so that they no longer strangle infants; flammable children's pajamas taken off the market; the redesign of harmful medical devices; the strengthening of auto fuel systems so that they do not blow up upon impact; the addition of basic safeguards to dangerous farm machinery; and the elimination of asbestos so that workers are no longer poisoned in their workplaces.

Mr. Speaker, instead of providing more protections for the average American, the Republican leadership actually provides protections for, get this, the ''Benedict Arnold corporations'' who reincorporate in a foreign tax shelter only to avoid paying U.S. taxes. Specifically, this bill protects these Benedict Arnold corporations from lawsuits American citizens could file if they are injured by those corporations' products. Unbelievable. The bill limits the venue of a lawsuit against a corporate defendant to either the place the injury happened or the jurisdiction where ''the defendant's principal place of business is located.'' If a foreign corporation does not do significant business in a place where the injury occurred, a plaintiff cannot sue a corporation headquartered outside the United States. In other words, a person injured by a defective product would be able to sue a U.S. corporation in its principal place of business, but he or she would often have no way to seek redress against a foreign corporation.

Now, the gentleman from Texas (Mr. TURNER) attempted to fix this provision. While the Republican leadership actually made the Turner amendment in order, they did so only after a provision intended to hold these Benedict Arnold corporations accountable for

their actions in the United States was removed from the amendment. The provision the Republican leadership removed from the Turner amendment defines Benedict Arnold corporations as U.S. companies that set up corporate shells in foreign countries in order to escape U.S. tax liability and other U.S. regulatory duties.

In other words, Mr. Speaker, the one proposal that was intended to protect people, not corporations, was left on the Committee on Rules floor last night. The Republican leadership does not want the American people to know that their bill puts Benedict Arnold corporations ahead of American consumers. This is just one example of the Republican leadership bending over backwards for special interests, while ignoring the real issues facing the American people. I hope my friend, the gentleman from Texas (Mr. SESSIONS), will take the time during this debate to explain to the American people why the Republican leadership continues to protect Benedict Arnold companies instead of fighting for American jobs here at home.

But, then again, today's debate is not about the real issues confronting the American people; it is all about distraction. If we waste enough time on this bill, maybe the American people will not have time to ponder the failures and the lack of action by the Republican-controlled Congress on our most pressing priorities. It is a cynical ploy, and I hope that the American people recognize it.

I urge my colleagues to reject H.R. 4571.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Republicans do listen to Democrats, and we have had a number of times where the Republican Party, the majority party, has talked about tort reforms and other issues that are important to consumers.

One of the persons that we have listened to repeatedly in this debate is perhaps one of the most successful trial lawyers who is now a United States Senator, and his name is JOHN EDWARDS. Senator EDWARDS has written in Newsweek that ''lawyers who bring frivolous lawsuits should face tough mandatory sanctions with the '3-strikes' penalty.'' That is what Mr. EDWARDS has said. Senator EDWARDS has also said that he ''believes we need a national system in place that will weed out meritless lawsuits.'' That is exactly what H.R. 4571 would do.

We are listening to the American people. We are listening to people who are lawyers who are engaged in the business of advocating on behalf of people who have been harmed. But sometimes those people know most about the system, as Senator JOHN EDWARDS, who knows best that we need to reform the system. That is what we are doing here today. I do appreciate the opportunity to have Senator EDWARDS' remarks that were in Newsweek magazine included today, because I think it is important for the American public to hear that.

Mr. Speaker, I yield 3 minutes to the gentleman from Bristol, Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in support of this rule and in support of the Lawsuit Abuse Reduction Act, and I do so because I have seen firsthand the very destructive nature that frivolous lawsuits have on our country, on our job creation, and on our health care costs.

Before coming to Congress I was in the private sector and ran a business, and every year we spent hundreds of thousands of dollars on liability insurance in an attempt to protect ourselves and our employees from frivolous lawsuits. We spent millions of dollars every year on inflated health care costs for our employees, and those suits that were filed against us were usually settled and they were usually settled in a fashion where the lawyers got millions of dollars and the plaintiffs essentially got pennies. In the end, we spent millions of dollars every single year to protect ourselves against frivolous lawsuits and to get rid of frivolous lawsuits.

Instead of spending millions of dollars on frivolous lawsuits, it would have been much more productive to spend that money on creating more jobs and lowering the health care costs for our employees. Every year frivolous lawsuits cost our economy $233 billion. That is 2.23 percent of our GDP, and it costs $109 for every single person in America.

Mr. Speaker, I do not think there are many things that we could do to give our economy a boost, to help American companies compete better in a global marketplace, than ending frivolous lawsuits. So I encourage all of my colleagues to support this rule and to support the Lawsuit Abuse Reduction Act.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Texas (Mr. SESSIONS), I am happy to yield to him 30 seconds to answer the question that I asked in my opening statement and that is, why did you remove this section of the Turner amendment that held Benedict Arnold corporations accountable? Why do you feel that we need to protect companies who purposely open up P.O. boxes in Bermuda so that they can escape paying U.S. taxes? Even if you support paying Benedict Arnold corporations, why can we not have at least an up or down vote on an amendment so that the House can decide?

I am happy to yield to the gentleman 30 seconds so that he can clarify that for me.

Mr. SESSIONS. Mr. Speaker, I thank the gentleman for yielding, and I am pleased to respond. First of all, I would like to say that the gentleman from Texas (Mr. TURNER) requested its removal.

Secondly, I would like to say that the provision actually allows a covered company under this provision that they have the absolute right not only to remove their case to Federal court, but they can remove the case to any Federal court in the country that they would like, and that they can pick the Federal court if they have one, wherever the Federal court is, and have the case there; whereas our bill prevents unfair forum shopping by making sure that cases are actually brought in States that actually have a connection to the case.

As the gentleman may be aware, there are abuses that take place all across this country, including in Illinois and Mississippi, where there are cases that are accepted by courts where no one actually even lives in those jurisdictions.

I thank the gentleman for asking for a response.

Mr. MCGOVERN. Mr. Speaker, reclaiming my time, I appreciate the gentleman's response, but it really did not answer my question, and I yield myself such time as I may consume.

The bottom line is the gentleman from Texas (Mr. TURNER) decided not to pursue his amendment only after he was told by the leadership of this House that he could not have the language he wanted, and the companies that we are talking about here, these Benedict Arnold companies, are not in individual States, they are in places like Bermuda.

I just think it is outrageous that these companies that really skirt U.S. tax law, and I think are not the kind of corporations that deserve to be protected, are in fact protected in this bill, and I think it is wrong.

Mr. Speaker, I would like to insert in the RECORD the complete text of the amendment that the gentleman from Texas (Mr. TURNER) wanted to offer and was told that he could not offer because I think it is instructive for the American people to at least have on record what he tried to do.

SEC. 6. ACCOUNTABILITY FOR BENEDICT ARNOLD CORPORATIONS.

(a) JURISDICTION.—In any civil action concerning an injury that was sustained in the United States and in which the defendant is a Benedict Arnold corporation, any Federal court in which such action is brought shall have jurisdiction over such defendant.

(b) SERVICE OF PROCESS.—Process in an action described in subsection (a) may be served wherever the Benedict Arnold corporation is located, has an agent, or transacts business.

(c) DEFINITIONS.—For purposes of this subsection:

(1) The term ''Benedict Arnold corporation'' means a foreign corporation that acquires a domestic corporation in a corporate repatriation transaction.

(2) The term ''corporate repatriation transaction'' means any transaction in which—

(A) a foreign corporation acquires substantially all of the properties held by a domestic corporation;

(B) shareholders of the domestic corporation, upon such acquisition, are the beneficial owners of securities in the foreign corporation that are entitled to 50 percent or more of the votes on any issue requiring shareholder approval; and

(C) the foreign corporation does not have substantial business activities (when compared to the total business activities of the corporate affiliated group) in the foreign country in which the foreign corporation is organized.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of H. Res. 766, a modified, closed rule for H.R. 4571, the Lawsuit Abuse Reduction Act of 2004. This is a fair rule which provides for consideration of this important legislation and gives the minority an opportunity to offer a substitute amendment for the full House to consider.

With regard to the underlying measure, I support placing some level of accountability upon those who would otherwise unnecessarily burden our Nation's judicial system. While most tort reform measures focus primarily on the amount of damages one can collect through civil actions, little is ever said, much less done, to admonish the individuals who are the cause of the unnecessary litigation. As a matter of reason, we all agree that individuals should be given the right to seek redresses for certain grievances through civil litigation, as long as those claims are legitimate in their nature. After all, it is the responsibility of this Nation's judicial system to uphold the rights and liberties of the American citizen.

Our system of justice is flawed, however, in that it fails to incorporate checks upon those who would use it for other either malevolent means or personal gain. Under current law, for example, a lawyer who files a blatantly frivolous lawsuit in violation of Rule 11 may actually avoid punishment as long as he or she withdraws the filing within 21 days after the opposing party has filed a motion for sanctions. Judicial filings, whether legitimate or frivolous, bring cost burdens to both parties involved and the government, and these costs, most notably attorneys fees, do not evaporate once the frivolous claim has been withdrawn.

H.R. 4571, however, corrects these shortcomings by imposing reasonable standards of responsibility on the legal community and preventing lawyers from circumventing Rule 11. Most importantly, this legislation sends out a clear message that our judicial system was intended to protect the rights of the aggrieved, not to provide wealth to those who would profit from the aggrieved. As such, I am hopeful that my colleagues will join me in support of this bill.

□ 1045

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to reject H.R. 4571, and I ask that they support the substitute that will be offered by the gentleman from Texas (Mr. TURNER).

The Turner substitute is a stronger bill and addresses the real needs of the American public. The Turner substitute respects all Americans by setting up other three strikes and you are out systems while protecting civil rights lawsuits. The Turner substitute also prevents corporate wrongdoers from sealing their activities in court records. And the Turner substitute requires States to put into action a system to speed up the trial process and eliminate junk lawsuits.

Let me again state for the record, Mr. Speaker, that it is frustrating and it is mind boggling to me that the Republican leadership insists that the Turner substitute not include language that would hold Benedict Arnold corporations accountable. What is the deal?

Why does the Republican leadership not only on this bill but on so many other bills in which we try to hold these companies accountable insist on bending over backwards to protect them. These are companies that purposefully set up P.O. boxes in places like Bermuda to avoid paying U.S. taxes. There is no citizen in this country that can do that. But these corporations that make millions and millions, if not billions of dollars get to do that, get to take advantage of all the benefits of this country, but do not have to pay U.S. taxes and here they are being protect from lawsuits if in fact they produce a damaging product.

It is wrong. It is outrageous. This should not be happening, and I would again just say that it is sad that we are at this point.

Mr. Speaker, I would urge the adoption again of the Turner substitute and the rejection of this ill-conceived, ill-advised bill, and I would urge my colleagues to vote no on H.R. 4571.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, as I had stated, this is balanced legislation that is important to consumers. It is important to judges who sit to make themselves ready for those lawsuits that are necessary to make wise decisions on. But frivolous lawsuits are clogging our courts.

Mr. Speaker, I would remind this body that we have debated numerous tort reform issues, and one which was decided as a local issue in Texas was about medical malpractice, tort reform for medical malpractice. It was passed last year. It became law in January of this year. And one of the most important health care systems in Texas, a company called Christus HealthCare Systems, has announced earlier this month that as a result of those tort reform changes in Texas, they are able to put $21 million that previously they had set aside for lawsuits, that would go right back into their hospitals, to health care, to retraining of their employees, to make their system better, to make health care work better for every single consumer, and most of all to hire more nurses which is where the shortage was in their hospital.

Tort reform issues and ideas work but so do those things like we are doing today, H.R. 4571, that says we are going to alleviate and stop frivolous lawsuits from clogging our courts. I would remind this wonderful body that the young chairman, the gentleman from San Antonio, Texas (Mr. SMITH), has worked very diligently to ensure that this is balanced legislation that was brought to the floor, as he appeared yesterday in the Committee on Rules to talk about the need for this. I think we are listening to the special interests and we admit in the Republican Party we do have a specialty interest, they are call consumers. They are called taxpayers. And those special interest people that the Republican Party represents, we will continue to do so with common sense legislation that will allow the United States Congress to speak on issues that are important.

Mr. Speaker, I encourage all of my colleagues to stand up to support not only this rule but also the underlying legislation that is good for consumers. It is good for small businesses. It is good to ensure that America's economic growth continues. And most of all, it is good for the people, like Senator EDWARDS noted, who are there on the front line in our courts who say that frivolous lawsuits must end. The United States Congress will speak today. Every single Member of this body will have a chance to make that firm decision whether we want to end frivolous lawsuits or whether we are going to allow the status quo.

I urge my fellow Members to please support this underlying legislation and we will make a strong statements on behalf of consumers.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the rule issued by the Committee on Rules for H.R. 4571, the Lawsuit Abuse Reduction Act of 2004.

As I mentioned during the Committee on the Judiciary's oversight hearing on this legislation and reiterated in my statement for the markup, one of the main functions of that body's oversight is to analyze potentially negative impact against the benefits that a legal process or piece of legislation will have on those affected. The base bill before the House today does not represent the product of careful analysis and therefore, it is critical that Members be given the ability to offer amendments to improve its provisions.

In the case of H.R. 4571, the Lawsuit Abuse Reduction Act, the oversight functions of the Judiciary Committee allowed us to craft a bill that will protect those affected from negative impacts of the shield from liability that it proposes. This legislation requires an overhaul in

order to make it less of a misnomer—to reduce abuse rather than encourage it.

The goal of the tort reform legislation is to allow businesses to externalize, or shift, some of the cost of the injuries they cause to others. Tort law always assigns liability to the party in the best position to prevent an injury in the most reasonable and fair manner. In looking at the disparate impact that the new tort reform laws will have on ethnic minority groups, it is unconscionable that the burden will be placed on these groups—that are in the worst position to bear the liability costs.

When Congress considers pre-empting State laws, it must strike the appropriate balance between two competing values—local control and national uniformity. Local control is extremely important because we all believe, as did the Founders two centuries ago, that State governments are closer to the people and better able to assess local needs and desires. National uniformity is also an important consideration in federalism—Congress's exclusive jurisdiction over interstate commerce has allowed our economy to grow dramatically over the past 200 years.

This legislation would reverse the changes to Rule 11 of the Federal Rules of Civil Procedure (FRCP) that were made by the Judicial Conference in 1993 such that (1) sanctions against an attorney whose litigation tactics are determined to harass or cause unnecessary delay or cost or who has been determined to have made frivolous legal arguments or unwarranted factual assertions would become mandatory rather than discretionary to the court, (2) discovery-related activity would be included within the scope of the rule, and (3) the rule would be extended to State cases affecting interstate commerce so that if a State judge decides that a case affects interstate commerce, he or she must apply rule 11 if violations are found.

This legislation strips State and Federal judges of their discretion in the area of applying rule 11 sanctions. Furthermore, it infringes States' rights by forcing State courts to apply the rule if interstate commerce is affected. Why is the discretion of the judge not sufficient in discerning whether rule 11 sanctions should be assessed?

If this legislation moves forward in this body, it will be important for us to find out its effect on indigent plaintiffs or those who must hire an attorney strictly on a contingent-fee basis. Because the application of rule 11 would be mandatory, attorneys will pad their legal fees to account for the additional risk that they will have to incur in filing lawsuits and the fact that they will have no opportunity to withdraw the suit due to a mistake. Overall, this legislation will deter indigent plaintiffs from seeking counsel to file meritorious claims given the extremely high legal fees.

Furthermore, H.R. 4571, as drafted, would allow corporations that perform sham and non-economic transactions in order to enjoy economic benefits in this country.

This is a bad rule that will have terrible implications on our legislative branch, and I ask that my colleagues defeat the rule, defeat the bill, and support the substitute offered by Mr. TURNER. We must carefully consider the long-term implications that this bill, as drafted, will have on indigent claimants, the trial attorney community, and facilitation of corporate fraud.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. OSE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded voted or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

NONPROFIT ATHLETIC ORGANIZATION PROTECTION ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3369) to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage or adoption of rules for athletic competitions and practices.

The Clerk read as follows:

H.R. 3369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nonprofit Athletic Organization Protection Act of 2003''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) HARM.—The term ''harm'' includes physical, nonphysical, economic, and non-economic losses.

(3) NONECONOMIC LOSS.—The term ''non-economic loss'' means any loss resulting from physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(4) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means—

(A) any organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization which is organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(5) NONPROFIT ATHLETIC ORGANIZATION.—The term ''nonprofit athletic organization'' means a nonprofit organization that has as one of its primary functions the adoption of rules for sanctioned or approved athletic competitions and practices. The term includes the employees, agents, and volunteers of such organization, provided such individuals are acting within the scope of their duties with the nonprofit athletic organization.

(6) STATE.—The term ''State'' includes the District of Columbia, and any commonwealth, territory, or possession of the United States.

SEC. 3. LIMITATION ON LIABILITY FOR NONPROFIT ATHLETIC ORGANIZATIONS.

(a) LIABILITY PROTECTION FOR NONPROFIT ATHLETIC ORGANIZATIONS.—Except as provided in subsections (b) and (c), a nonprofit athletic organization shall not be liable for harm caused by an act or omission of the nonprofit athletic organization in the adoption of rules for sanctioned or approved athletic competitions or practices if—

(1) the nonprofit athletic organization was acting within the scope of the organization's duties at the time of the adoption of the rules at issue;

(2) the nonprofit athletic organization was, if required, properly licensed, certified, or authorized by the appropriate authorities for the competition or practice in the State in which the harm occurred or where the competition or practice was undertaken; and

(3) the harm was not caused by willful or criminal misconduct, gross negligence, or reckless misconduct on the part of the nonprofit athletic organization.

(b) RESPONSIBILITY OF EMPLOYEES, AGENTS, AND VOLUNTEERS TO NONPROFIT ATHLETIC ORGANIZATIONS.—Nothing in this section shall be construed to affect any civil action brought by any nonprofit athletic organization against any employee, agent, or volunteer of such organization.

(c) EXCEPTIONS TO NONPROFIT ATHLETIC ORGANIZATION LIABILITY PROTECTION.—If the laws of a State limit nonprofit athletic organization liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit athletic organization to adhere to risk management procedures, including mandatory training of its employees, agents, or volunteers.

(2) A State law that makes the nonprofit athletic organization liable for the acts or omissions of its employees, agents, and volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

SEC. 4. PREEMPTION.

This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to the rule-making activities of nonprofit athletic organizations.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect on the date of enactment of this Act.

(b) APPLICATION.—This Act applies to any claim for harm caused by an act or omission of a nonprofit athletic organization that is filed on or after the effective date of this Act

but only if the harm that is the subject of the claim or the conduct that caused the harm occurred on or after such effective date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3369.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to join me in voting for H.R. 3369, the Nonprofit Athletic Organization Protection Act of 2003. I would like to thank the bill's sponsor, the gentleman from Indiana (Mr. SOUDER) for bringing attention to this issue and offering this legislation.

Volunteer athletic organizations play an important role in the lives of children and communities throughout the country. Rulemaking bodies that set standards and uniform rules for sports play a vital role in facilitating a broad range of athletic competition. Nonprofit rulemaking bodies, such as Little League baseball or Pop Warner football, rely on the expertise of volunteers to establish rules for athletic competition and training that promote sportsmanship, preserve sports traditions, ensure fair and competitive play, and minimize risk to participants.

As we know, almost all athletic competition carries risks to those who participate, and accidents do occur when young men and women are flying about on fields and courts and rinks. But rulemaking is a predictive endeavor, and rulemakers do not have the advantage of 20–20 hindsight when they make rules for competition. Unfortunately, no rule book can prevent injuries from occurring in the games that we play and love.

What we also know after multiple lawsuits is that when those accidents occur sometimes the very nonprofit athletic organizations that seek to minimize risk to athletes have become the targets of costly, protracted, and often frivolous litigation based on harm that occurs in the course of a sporting event. Over the last several years nonprofit athletic organizations have been subject to mounting legal assault.

Egregious examples are all too common. One Little League organization chose to avoid the threat of massive damages by settling a claim by a parent who was hit by a ball her own child failed to catch. In another example, lawyers for a youth who suffered an injury in a volunteer sponsored and supervised Boy Scout game of touch football filed a multimillion dollar lawsuit against the adult supervisors and the Boy Scouts of America.

The explosion in the number of lawsuits against volunteer athletic organizations has had a corresponding impact on the price of insurance premiums these organizations are required to carry. According to the National High School Federation, for example, liability insurance rates for high school athletic organizations have spiked 300 percent over the last 3 years.

In the short term, these increases divert resources from safety programs and equipment that reduce the risk of these injuries to athletes. If this trend continues to escalate, rulemaking authorities may be driven out of existence.

H.R. 3369, the Nonprofit Athletic Organization Protection Act, would stem the growing tide of lawsuits against the range of nonprofit youth and high school athletic rulemaking bodies for rules that govern competition on the field. The legislation merely protects nonprofit athletic organizations from legal assault if harm was not caused by that organization's misconduct.

Critically, this legislation would effect only a limited category of claims against the nonprofit rulemaking organizations, and all claims for willful misconduct, gross negligence or reckless misconduct would still be actionable. Nothing in this legislation provides liability relief for a school or a school district holding a competition or for coaches or officials supervising or conducting a game.

The legislation also provides deference to States by preserving any State law that affords additional protection from liability relating to the rulemaking activities of the nonprofit athletic organization. The bill is a narrowly tailored, common sense remedy to a very serious and growing threat to volunteer athletic organizations.

If we fail to act, some of these valuable organizations will close up shop. If we fail to act, youth sports and those who play them will ultimately suffer. I urge my colleagues to support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask the gentleman if this is the same bill that was reported from committee, because there were other drafts floating around in the last couple of days.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. SCOTT of Virginia. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, the answer is yes. This bill is in the form that was reported from committee and it is also in the form that it was introduced by the gentleman from Indiana (Mr. SOUDER).

Mr. SCOTT of Virginia. Reclaiming my time, Mr. Speaker, I oppose the legislation that is drafted. H.R. 3369 provides immunity for nonprofit athletic organizations from lawsuits in the adoption of rules for sanctioned or approved athletic competitions or practices. This legislation would virtually eliminate any valid claims from being brought forth.

Specifically, the legislation does not differentiate between meritorious lawsuits and frivolous lawsuits. H.R. 3369 prohibits civil litigation of any grievance arising under the rules promulgated by the nonprofit sporting organization. It exempts the athletic organization from liability for harm caused by an act or omission of the adoption of rules for sanctioned or approved athletic competitions or practices if the organization was acting within the scope of its duties, the organization was properly licensed, certified or authorized for the competition or practice, and the harm was not caused by the organization's willful or criminal misconduct, gross negligence, or reckless misconduct.

So while lawsuits filed by parents because their child was not put on a team may rightly be dismissed, cases with legal merit such as a rule that endangers the life of a child would also be dismissed.

□ 1100

In effect, this legislation would effectively bar them from their day in court, and H.R. 3369 would dramatically obstruct valid discrimination claims or other kinds of discrimination claims against such athletic organizations. Such lawsuits call attention to public safety hazards and discriminatory acts and need to be available for litigation to protect our Nation's children.

As drafted, the broad immunity H.R. 3369 extends to nonprofit organizations reaches far beyond the potential for frivolous lawsuits in our Federal judicial system. H.R. 3369 prohibits civil litigation of any grievance arising out of the rules promulgated by nonprofit organizations.

As drafted, this legislation is so broad that it would bar legitimate issues from being brought forth. Thus, such cases as discrimination, antitrust, labor, environmental and other important claims would not be allowed to go forward.

Additionally, H.R. 3369 protects the right of a nonprofit organization to sue others. If the legislation is designed to suppress unnecessary litigation altogether, how is an organization's grievance legitimate but individual complaints are not?

Written to suppress only the outlets available for individual citizens, this legislation simply overreaches. It is the height of hypocrisy to suggest that these organizations should be allowed to have their day in court while limiting the ability of individual athletes and others to hold them accountable.

Mr. Speaker, previous immunity statutes like this would immunize coaches, volunteers and board members, but the injured party, somebody injured through no fault of their own, would have recourse against the organization.

This bill leaves the injured party without any recourse at all.

There are serious problems with this legislation, so I would urge my colleagues to oppose the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. SOUDER), the author of the bill.

(Mr. SOUDER asked and was given permission to revise and extend his remarks.)

Mr. SOUDER. Mr. Speaker, I want to thank the chairman for moving this bill. I very much appreciate his leadership in the whole area of tort reform and particularly appreciate his willingness to move this bill.

I also would like to thank the original cosponsors of the bill, the gentleman from Maryland (Mr. WYNN), the gentleman from Nebraska (Mr. OSBORNE), the gentleman from Washington (Mr. HASTINGS), the gentlewoman from New York (Mrs. KELLY) and the gentlewoman from Colorado (Mrs. MUSGRAVE).

My colleagues have heard some of the opening debate on this, and let me say, to put this in realistic terms, in a new book by the gentleman from Illinois (Speaker HASTERT), he talks about how he injured his shoulder off-season practicing wrestling. Then he wanted to play football, and his coach and the association rules outfitted him in a shoulder pad, and he played with pain. He goes through a number of things that he and his good friend Tom Jarman did with that shoulder. Then he went through the wrestling season. Then he had surgery.

The question is and the plain truth is, under today's society, he could have sued the State of Illinois blind. He could have sued his school. He could be as outrageous as some of these other people because, in wrestling and football, occasionally people get hurt. And it does not give people the right to sue the schools and to make it hard for every other kid to play the sport.

What we have seen in this country, just recently, costs of lawsuits have gone out of control. One provider has informed us that they have gone up 300 percent; another one, 600 percent. One has dropped coverage of all high school associations and Little Leagues and Pop Warners. Three more are considering it.

Their costs are going up every year faster than they can charge assessments. One governing body that provides for 5,000 athletes, some of the elite athletes in the country, for an Olympic sport has had a 1,000 percent increase in their costs. How are they supposed to deal with this? Who pays for this?

Often, it is the taxpayer, but in this case, the taxpayers are not giving more money to the schools. So, if the Indiana State High School Athletic Association has to absorb 300, 600 percent, 1,000 percent increases in costs, they do not have anywhere to pass it. The kids pay it. They will lose certain sports that are higher risk. They have computers reduced in the schools, books reduced in the schools. Sometimes even teachers, when they retire, are not replaced. And so we have class size increase because the taxpayers are not giving the schools more money.

So what happens when they increase their rates? Something has to give. What happens when a Little League or a Pop Warner league has a 300 percent or a 600 percent or 1,000 percent increase in their costs? Where do they get their money? They get it from the kids who are playing.

If one is a mom or dad and you are working on a tight budget and you wanted your kid to play Pee Wee Football or Little League and you want to have them go and you just saw a 300 percent or 600 percent or 1,000 percent increase in the cost of playing and you do not have much money, you are not going to let them play.

In many middle class families, I know in my family, we make the judgment, boy, we have got spring soccer, fall soccer, summer, winter, indoor, okay, you know, you start taking double, triple costs on these type of things, even middle- and upper-income families are going to restrict the amount.

At a time of rising obesity in this country, the last thing we need to do right now is shut down high school sports.

The plain truth of the matter is that some of the objections my good friend from Virginia raised, we have been trying to negotiate. We offered amendments. They said that they still would not support the bill. Then they came up with this last one on physical injury, because the bill does not even relate to other things other than physical injury. But we said, Okay, we will put them in, even though they are extraneous. If you are worried about them, we have protections about State laws. We have protection on civil rights laws, but if you want to put that in, we will put it in.

Then they went physical injury. What is a pitcher supposed to do in Little League? Unless you can throw it straight over the plate, you are not allowed to pitch or the umpire is going to be held liable. The coach is going to be held liable. The association is going to be held liable.

In football, when a linebacker's coming up, does he have to say, Excuse me, brace yourself, I am going to hit you at the knees, I am going to hit you in your back? In wrestling, are you supposed to say, before a take-down in the State rules, Uh-oh, I am going to go for a pin now, be ready? How does this actually work?

The way we have governing bodies is, they have to take into account the risk to the individual plus the historic purpose of the sport. They have governing bodies that change these rules every year to try to make them safer, but you know what? Sports are not always safe. If we are going to have these ridiculous suits that go for millions of dollars, nobody's doing physical damages, hospital costs. This is for nonrelated to physical costs. If this is what we are going to do in our society, what we are going to have is silly sports or no sports, and everybody's going to be playing Frisbee unless the Frisbee hits somebody in the head, and then there will be a lawsuit off that, too.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

(Mr. SCOTT of Virginia asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. SCOTT of Virginia. Mr. Speaker, the gentleman has made all these statements that somebody can sue, somebody can sue, somebody can sue. What he has not related is anyone who has filed suit and actually recovered a judgment.

I would like to introduce for the RECORD at this point a letter from the Leadership Conference on Civil Rights which outlines several civil rights claims that would be barred by this legislation.

SEPTEMBER 13, 2004.

DEAR REPRESENTATIVE: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil rights coalition representing people of color, women, children, older Americans, persons with disabilities, gays and lesbians, major religious organizations, labor unions, and civil and human rights groups, we urge you to vote against H.R. 3369, the ''Nonprofit Athletic Organization Protection Act of 2003.'' If enacted, this bill could set a dangerous precedent for the enforcement of civil rights laws generally and could specifically allow nonprofit athletic organizations to evade civil rights laws and unlawfully discriminate on the basis of race, sex, disability, or other characteristics protected by federal and/or state law.

While the preamble suggests that the bill's intent is to protect nonprofit athletic organizations from liability arising from claims of ordinary negligence relating to the adoption of rules for competitions/practices, the actual text of the bill is much broader and creates the risk that such organizations could evade their obligations under laws unrelated to negligence, such as federal and state civil rights laws. More specifically, the bill provides that ''a nonprofit athletic organization [which includes the employees, agents, and volunteers of such organization] shall not be liable for harm caused by an act or omission of the . . . organization in the adoption of rules for sanction or approved athletic competitions or practices. . . . This language creates the risk of eliminating valid discrimination claims such as those found in the following cases:

In Cureton v. NCAA, a class action lawsuit filed by African-American student athletes challenged the National Collegiate Athletic Association's rule requiring all potential student-athletes to achieve a minimum score on the SAT or the ACT as having a disparate impact on African-American students, in

violation of Title VI of the Civil Rights Act of 1964. Early on, the Educational Testing Services (ETS), which designed the SAT, criticized the NCAA's then-proposed use of a fixed cut-off score and warned that such a rule would have such a disproportionate impact, and it did. But only in the face of a lawsuit did the NCAA change its rule so that student athletes could be eligible for Division I schools on the basis of their grades, not just their test scores.

In Michigan High School Athletic Association v. Communities for Equity, federal district and appellate courts in the Sixth Circuit have ruled that the state high school athletic association's practice of scheduling six girls' sports, and no boys' sports, in nontraditional and/or disadvantageous seasons discriminated against female athletes in violation of Title IX of the Education Amendments of 1972 and the U.S. Constitution. The court found that the association's scheduling decisions harmed girls by limiting their opportunities for athletic scholarships and collegiate recruitment, limiting their opportunities to play in club or Olympic development programs, and causing them to miss opportunities for awards and recognition.

In PGA Tour, Inc. v. Martin, the U.S. Supreme Court ruled that the Americans with Disabilities Act requires the PGA Tour to allow professional golfer Casey Martin, who suffers from a circulatory disorder making it painful to walk long distances, to ride in a golf cart between shots at Tour events. The nonprofit PGA had ruled that walking the course in an integral part of golf, and Martin would gain an unfair advantage using the cart. In a 7–2 decision, the Supreme Court decided that the PGA could not deny Martin equal access to its tours on the basis of his disability.

In addition, H.R. 3369 allows nonprofit athletic organizations to sue, but not be sued. It is the height of hypocrisy to suggest that these organizations should be allowed to have their day in court while limiting the ability of individual athletes and others to hold them accountable.

Finally, the bill preempts state law that provides less liability protection to nonprofit athletic organizations but not state law that gives additional protection to nonprofit athletic organizations. There is no need for Congress to preempt state law at all. If states want to protect certain state athletic organizations, they can do so right now without any action by Congress.

While we understand that those who oppose this bill might be accused of fueling litigation, we urge you to consider the risk that this bill could be used to exempt nonprofit athletic organizations, which exercise control over the lives of student-athletes, coaches, and many others, from treating these individuals fairly and in accordance with our nation's civil rights laws. Moreover, this bill would create additional litigation regarding who is covered by the bill and what types of claims it precludes.

LCCR strongly urges you to oppose the ''Nonprofit Athletic Organization Protection Act of 2003.'' If you have any questions, or would like additional information, please contact Nancy Zirkin at 202/263–2880, or Julie Fernandes, Senior Policy Analyst, at 202/263–2856.

Thank you in advance for your support.

Sincerely,

WADE HENDERSON,
Executive Director.
NANCY ZIRKIN,
Deputy Director.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Speaker, I thank the chairman for the time.

The increased cost of insuring youth athletic leagues is of great concern to me and the constituents of the Seventh Congressional District of Virginia. Millions of youngsters around the country participate in soccer, football, baseball, basketball, lacrosse and other sports. They learn discipline and teamwork, and most importantly, they have fun.

As a parent of three, I have spent countless hours on the football, soccer, lacrosse fields and other athletic facilities watching my children compete and grow from their athletic experience. It is something that I am very concerned about.

As has been said, we are now facing a very real prospect of a chilling of the desire for parents to form athletic associations to give their children an opportunity to compete on the athletic field. This bill takes on the prospects of this chilling.

It addresses the fact that there is increasing costs playing sports in a voluntary way, cost-prohibitive for American families. That is why I am here.

I thank the gentleman from Indiana for his sponsorship of this important legislation. I urge its passage and return to common sense so that we can see our children continue to play on the fields.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member for the time, and I not only stand here as a mother of two who spent many countless hours in soccer and Little League and a variety of other sports, basketball and others, I agree with my colleagues who express their concern for the validity and support of these nonprofit athletic organizations.

But I also say that we are going at our concern in the wrong manner and wrong-headed way.

All of us enjoy the mementos and the various awards that our young people get in the playing of competitive voluntary sports as children, but the problem with this legislation, H.R. 3369, frankly, is that it does not differentiate between meritorious lawsuits and frivolous claims. It allows the organizations to sue but not to be sued and, thereby, I think, finds us in a very bad dilemma.

There are a number of suits involving civil rights, discrimination, disabled issues, disabled Americans that would not have gotten the attention if we had not allowed them to sue these various organizations.

In the Cureton v. NCAA, a class of African American student athletes challenged the National Collegiate Athletic Association's rule regarding national testing. They deserve their day in court.

The PGA Tour, Inc., v. Martin was a case dealing with the Americans with Disabilities Act which would suggest that the organization was antiquated in its understanding of the rights of disabled Americans.

Why would my colleagues deny these rights? And why would they deny the rights of Americans to provide themselves with some sort of relief?

I believe this legislation preempts State law unnecessarily. If States want to protect certain State athletic organizations, they can do so right now without any action by Congress. They can do so right now.

Unfortunately, H.R. 3369 does not just preempt State law. It preempts State law that gives more protections to athletes and leaves in place States that give additional liability protections to nonprofit athletic organizations.

I believe that this bill goes too far in the desire that we have, which is to make sure that we have a free or an open playing field, if you will, for our young people of America to develop their character skills, their leadership skills and their athletic ability.

Why are we interfering? I believe that we can look at the record and find a number of lawsuits did not generate into judgment, and so we understand that frivolous lawsuits are taken care of by the legal system, the judicial system that we put in place. Why are we putting our heavy hand to deny those parents and students and players on the field, those young people and others, the opportunity to engage when their rights have been deprived?

I would ask my colleagues to, one, appreciate the desire of my good friend the gentleman from Indiana (Mr. SOUDER) on this bill but recognize that laws are already in place to protect these nonprofit athletic organizations, and I ask them to reject this legislation at this time.

Mr. Speaker, I rise in opposition of this legislation, H.R. 3369, the "Nonprofit Athletic Organization Protection Act." This bill provides immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage or adoption of rules for athletic competitions and practices. As a member of the House Judiciary Committee, many of my colleagues have reservations about the broad sweep of immunity that this bill will give to certain organizations and eliminate valid discrimination claims.

H.R. 3369 would provide immunity for any act or omission of a nonprofit athletic organization and its employees in the adoption of rules for sanctioned or approved athletic competitions or practices. This broad sweep of immunity would virtually eliminate valid discrimination claims such as those found in the following cases:

In Cureton v. NCAA, a class of African-American student-athletes challenged the National Collegiate Athletic Association's rule requiring all potential student-athletes to achieve a minimum score on the SAT or the ACT. Early on, the Educational Testing Services (ETS), which designed the SAT, criticized the NCAA's then-proposed use of a fixed cut-off

score and warned such a rule would have a disproportionate impact on African-American students. It did in fact have such an impact, but the NCAA did not change its rule. Only when this class brought a civil action did the NCAA change its rule so that student athletes could be eligible for Division I schools on the basis of their grades, not just their test scores.

In PGA Tour, Inc. v. Martin, the U.S. Supreme Court ruled that the Americans with Disabilities Act requires the PGA Tour to allow professional golfer Casey Martin, who suffers from a circulatory disorder making it painful to walk long distances, to ride in a golf cart between shots at Tour events. The nonprofit PGA had ruled that walking the course is an integral part of golf, and Martin would gain an unfair advantage using the cart. In a 7–2 decision, the Supreme Court decided that the PGA could not deny Martin equal access to its tours on the basis of his disability.

Moreover, in Michigan High School Athletic Association v. Communities for Equity, a Federal district court ruled that the State's high school athletic association practice of scheduling its female teams during nontraditional seasons discriminated against female athletes. The court found that scheduling the girls' sports, but not boys' sports, during nontraditional seasons resulted in limited opportunities for athletic scholarships and collegiate recruitment, limited opportunities to play in club or Olympic development programs, and missed opportunities for awards and recognition.

H.R. 3369 allows nonprofit athletic organizations to sue, but not be sued. It is the height of hypocrisy to suggest that these organization be allowed to have their day in court while limiting the ability of individual athletes and others to hold them accountable.

There is no need for Congress to preempt State law. If States want to protect certain State athletic organizations, they can do so right not without any action by Congress. Unfortunately, H.R. 3369 doesn't just preempt State law. It preempts State law that gives more protections to athletes and leaves in places States that give additional liability protections to nonprofit athletic organizations.

I urge my colleagues to see this bill for what it really does, catering to special interests. Please join me in voting against H.R. 3369.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I rise in support of H.R. 3369.

There is no question there has been a huge increase in personal injury lawsuits targeted at rulemaking bodies in recent years, such as Pop Warner, Little League, high school athletic associations and on and on.

Sports-governing authorities' premiums have risen, as has been stated previously, from about 120 percent to about 1,000 percent. At least one known carrier has completely dropped providing general liability coverage, while three others are looking at nonrenewing all policies.

So this is a concern, and so the rulemaking bodies will be driven out of existence if they, number one, cannot afford the premium or, number two, if they just simply cannot get coverage. This would take roughly 7 million high school athletes right off the field, and I think that the good that is done by college athletics and amateur sports far outweighs what we might see in terms of lawsuits.

The legal attack against all rulemaking bodies relies on the presumption that rules should eliminate all risk in athletic competition. In 1905, the NCAA was formed to eliminate the flying wedge. Recently, in football, a person cannot block with their head. They cannot chop block; clipping; practice in sweat clothes during the early season; water breaks; spring practice rules and so on. Yet if some young man decides to go out and tackle with his head down or has a spinal injury, there is absolutely no way we can prevent that. The rules have all been written, that I know of, that would provide safety in football. So accidents will happen.

So this rule, I think, is a good one because it would allow the rulemaking bodies to be protected from frivolous lawsuits by raising the standard of liability from negligence to gross negligence. And if we do not do something like this, a great number of young people will simply be taken off the field. I do not think that is a viable alternative.

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Mr. SCOTT of Virginia. Mr. Speaker, can you tell us how much time remains on both sides?

The SPEAKER pro tempore (Mr. OSE). The gentleman from Virginia (Mr. SCOTT) has 12½ minutes remaining, and the gentleman from Wisconsin (Mr. SENSENBRENNER) has 7½ minutes remaining.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, the Nonprofit Athletic Organization Protection Act before us today I believe sets a very dangerous civil rights precedent. I take this personally, because I raised four, now grown, children, and each and every one of them was an athlete, from competitive skater to All American football player, and I cannot imagine what our family would have been like if they had not been able to use their energy in sports. I cannot imagine the learning experience they would have missed if they had been faced with some unfair practice or decision that I could not challenge if that would have kept them out of athletics.

So I think what we are setting up here is the possibility of unfair practices and policies when I do not believe there is a need. This bill attempts to protect nonprofit athletic organizations from liability arising from claims of negligence, but I believe it could do more than that. What I believe it does is protect organizations from actual legitimate lawsuits.

What position does this put a parent in, when and if their daughter is told she cannot play soccer because she is not a boy? What does a parent do when their handicapped child is told they cannot be on a golf team because they cannot walk the course, but they could certainly get around the course in a wheelchair?

While my children are now grown, they join me in wanting to have their children have every opportunity to play any sport. They know the value of their experience and they want all children, every child in this country, to have the same experiences that they had.

Mr. Speaker, this legislation will prevent athletes from fighting for their rights to play, and that is just plain wrong. I urge my colleagues to oppose H.R. 3369.

Mr. SENSENBRENNER. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, the bill relates specifically to harm on the athletic field. We offered the Democrats this amendment, and they still opposed the bill.

Mr. Speaker, every single State high school athletic association supports this bill. So Members of Congress, if we have a recorded vote on this, need to know their high school association is already on record, including California, including Virginia, including Texas, every single State high school athletic association supports this bill.

Mr. Speaker, I will insert the list of these State associations into the RECORD.

NATIONAL FEDERATION OF STATE HIGH SCHOOL ASSOCIATIONS,
Indianapolis, IN, September 10, 2004.

DEAR MEMBER OF CONGRESS: On behalf of the National Federation of State High School Associations (NFHS), I am writing to voice our strong support for the ''Nonprofit Athletic Organization Protection Act of 2003'', H.R. 3369, and urge you to vote for this legislation when it reaches the House floor. On September 8, the Judiciary Committee voted to support moving this bill forward and we understand it will reach the House floor soon.

The National Federation of State High School Associations, a non-profit organization that administers education-based athletic competitions, has been the target of liability claims alleging negligence due to the passage or adoption of rules for sanctioned or approved competitions. These allegations have resulted in an increase in the number of liability claims against this organization. The claims are beginning to have a detrimental financial impact on the NFHS and could affect our ability to continue to provide services to the nation's 20,000 high schools.

While these claims are believed to be without merit, the cost of defending claims and the uncertainty of judicial proceedings have caused significant financial challenges. It is possible we will need to reconsider providing such rules or guidelines in the future. This may also be true of other amateur sports rule makers. Without this legislation, we expect this will continue to deteriorate and will further jeopardize non-profit organizations that administer athletic competition and publish rules.

For education-based athletics to continue in America, nonprofit athletic organizations must have the ability to make rules without the constant threat of litigation.

Earlier this summer, the Federation adopted a resolution supporting H.R. 3369. A list of

each state association supporting this legislation is attached.

Sincerely,

ROBERT KANABY,
Executive Director.

STATE HIGH SCHOOL ATHLETIC ASSOCIATIONS SUPPORTING H.R. 3369—THE NON PROFIT ATHLETIC ASSOCIATION PROTECTION ACT

Alabama High School Athletic Association
Alaska School Activities Association
Arizona Interscholastic Association
Arkansas Activities Association
California Interscholastic Federation
Colorado High School Activities Association
Connecticut Interscholastic Athletic Conference
Delaware Secondary School Association
District of Columbia Interscholastic Athletic Association
Florida High School Activities Association
Georgia High School Association
Hawaii High School Athletic Association
Idaho High School Activities Association
Illinois High School Association
Indiana High School Athletic Association
Iowa High School Athletic Association
Kansas High Activities Association
Kentucky High School Athletic Association
Louisiana High School Athletic Association
Maine Principals' Association
Maryland Public Secondary Schools Athletic Association
Massachusetts Interscholastic Athletic Association
Michigan High School Athletic Association
Minnesota State High School League
Mississippi High School Activities Association
Missouri High School Activities Association
Montana High School Association
Nebraska School Activities Association
Nevada Interscholastic Activities Association
New Hampshire Interscholastic Athletic Association
New Jersey State Interscholastic Athletic Association
New Mexico Activities Association
New York State Public High School Athletic Association
North Carolina High School Athletic Association
North Dakota High School Activities Association
Ohio High School Athletic Association
Oklahoma Secondary School Activities Association
Oregon School Activities Association
Pennsylvania Interscholastic Athletic Association
Rhode Island Interscholastic League
South Carolina High School League
South Dakota High School Activities Association
Tennessee Secondary School Athletic Association
Texas University Interscholastic League
Utah High School Activities Association
Vermont Principals' Association
Virginia High School League
Washington Interscholastic Activities Association
West Virginia Secondary School Activities Commission
Wisconsin Interscholastic Athletic Association
Wyoming High School Activities Association

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume, and I would point out to the gentleman from Indiana that I would assume that anyone who has been immunized from liability would support the legislation. I would like to see a list of people who have been injured by negligence, victims of discrimination, victims of violations of labor law. Let us get some of those to see what they think about it.

Mr. Speaker, as I said, we have immunized the volunteers, so in terms of running the organization, the volunteers have been immunized. A lot of places do not have problems with insurance. This mandates there is a blanket for everybody, State, local, everybody else, whether there are insurance problems or not.

We hear so much from the other side about States rights. Well, here we are, whether there is a problem in the State or not, here we come with a Federal mandate changing all their tort laws. Whether or not you disagree or agree with the Americans for Disabilities Act, or whether you agree or disagree with civil rights laws or labor laws, people ought to have the right to bring these cases in appropriate circumstances. Otherwise, the agency has no responsibility in any of these areas.

Now, accidents happen. We are not talking about accidents. What we are talking about is when an organization violates good common sense and someone is injured as a direct result of negligence. Should there be a recourse? Who should be responsible for the damage? If there is insurance, if you can get insurance, then certainly you should not immunize everybody. This can be done on a State-by-State basis. If Indiana cannot get insurance, then maybe Indiana can deal with that the best way Indiana feels Indiana can deal with it. If Virginia wants to deal with it in a different way, they can deal with it in a different way based on the availability of insurance.

But, Mr. Speaker, this bill goes too far. It immunizes more than is needed and it immunizes more causes of action. Now, the gentleman has talked about what kinds of negotiations were going back and forth. That is true. But we are not talking about the negotiations, we are talking about what is in the bill. The fact is, because of what is in the bill discrimination cases are thrown out; because of the bill, labor disputes are thrown out; all kinds of Americans with disabilities and everything else are thrown out because of the legislation. It is clearly overbroad and should be defeated.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

With all due respect, Mr. Speaker, I believe the arguments advanced by the gentleman from Virginia are wrong. This bill defines a nonprofit athletic organization as one whose primary function is ''the adoption of rules for sanctioned or approved athletic competitions and practices.'' And the bill only provides liability protection for an act or omission in the adoption of rules for such competitions and practices.

This language is very clear, and it should be interpreted only to deal with on-the-field rules that govern such competitions and the injuries that arise from them. It does not cover civil rights cases alleging discrimination or other off-the-field harms.

Now, I am a little bit puzzled about these objections coming up at this late date. This bill went through the regular committee process. There was a full committee hearing on July 20 and a full committee markup on September 8. The bill was open for amendment at the markup, and had the gentleman from Virginia or anybody else on either side of the aisle been concerned about the aspect that has been complained about, they had the opportunity to offer an amendment and to have the amendment voted on. They chose not to do so.

I do not think that the amendment would have been necessary, because what this bill does is it says that if a State athletic association, like the Wisconsin Interscholastic Athletic Association, decides to adopt a rule for competition that means that everybody who competes in a sanctioned high school competition has to have a certain piece of equipment on, they cannot be sued merely for adopting that rule if the equipment failed. That is what the protection is all about.

Now, if this bill goes down, with the huge increases in insurance premiums that have been recounted by many of the Members here, one of two things is going to happen. One is that there will be an increase in premiums that are passed on to the schools involved, both public schools and private schools; or, alternatively, if there is no coverage that is available, then the State athletic association or the Little League governing bodies or the Pop Warner governing body will simply cease to exist and there will not be any rules that are adopted that are designed to protect athletes from injury to the greatest extent humanly possible.

This is a good bill. This is a narrow bill. It should be passed.

Mr. UDALL of Colorado. Mr. Speaker, I think this bill is well-intentioned but I must reluctantly oppose it because I think it goes further than it should and because the House will have no opportunity to consider amendments that would narrow its scope.

As it stands, the bill would not only prevent lawsuits related to personal injuries, but also evidently would apply to complains that rules adopted by these organizations unfairly discriminate against women or otherwise violate civil rights protected by the constitution or by federal laws.

That this is a real possibility is made clear by the Judiciary Committee's report, which notes that "To further clarify that this legislation only applies to a limited category of claims that arise out of activities on the field in sanctioned athletic competitions, an amendment may be added to this legislation before House floor action to further clarify that the liability relief is not intended to apply to civil rights and discrimination cases that challenge eligibility rules set by such organizations."

Unfortunately, no such clarifying change was included—and now the bill is being considered under a procedure that prevents the House from considering any amendment.

I also am concerned that the bill as it stands might also inadvertently protect individuals who could potentially harm children. During the Judiciary Committee markup, Representative LOFGREN remarked that if a poor hiring rule was in place that did not screen out pedophiles, parents would be barred from suing the athletic association regarding that rule. Here again I think it would have been better for the House to be able to at least consider an amendment to address this point.

Because of these problems, and because the only choice before us is to approve or disapprove the bill as it stands, I will vote against this measure in the hope that it can be reconsidered under a procedure that permits more extensive debate and consideration of amendments.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3369.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GOOD SAMARITAN VOLUNTEER FIREFIGHTER ASSISTANCE ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1787) to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies, as amended.

The Clerk read as follows:

H.R. 1787

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Good Samaritan Volunteer Firefighter Assistance Act of 2004''.

SEC. 2. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death proximately caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) does not apply to a person if—

(1) the person's act or omission proximately causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) PREEMPTION.—This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that notwithstanding subsection (b) this Act shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term ''fire control or fire rescue equipment'' includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) STATE.—The term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) VOLUNTEER FIRE COMPANY.—The term ''volunteer fire company'' means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) EFFECTIVE DATE.—This Act applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this Act.

SEC. 3. STATE-BY-STATE REVIEW OF DONATION OF FIREFIGHTER EQUIPMENT.

(a) IN GENERAL.—The Attorney General of the United States shall conduct a State-by-State review of the donation of firefighter equipment to volunteer firefighter companies during the 5-year period ending on the date of the enactment of this Act.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Attorney General of the United States shall publish and submit to the Congress a report on the results of the review conducted under subsection (a). The report shall include, for each State, the most effective way to fund firefighter companies, whether first responder funding is sufficient to respond to the Nation's needs, and the best method to ensure that the equipment donated to volunteer firefighter companies is in usable condition.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1787, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume. I rise today to urge my colleagues to vote for H.R. 1787, the Good Samaritan Volunteer Firefighter Assistance Act of 2004. I would like to thank the sponsor of the bill, the gentleman from Delaware (Mr. CASTLE), for bringing attention to an important issue.

This straightforward, narrowly tailored legislation deserves our support, as do the volunteer firefighters who stand to benefit from its passage. The purpose of the bill is simple and clear: To encourage increased donation of surplus firefighting equipment to volunteer firefighting units by removing civil liability barriers that currently cause some corporation, individuals, and professional firefighting entities that destroy or mothball surplus or used equipment rather than to donate it.

The Committee on the Judiciary had a hearing on H.R. 1787 on July 20, 2004, at which Chief Philip Stittleburg of the National Volunteer Fire Council testified in favor of the bill. According to the testimony received by the committee, volunteer fire departments account for 75 percent of all the Nation's firefighters and represent a cost savings estimated to be as much as $37 billion annually, which taxpayers would otherwise have to spend if those services that volunteers provide had to be replaced with full-time paid professional firefighters.

Many of these volunteer departments are in rural areas, with fewer resources, and face a constant struggle to provide their members with adequate equipment to protect local communities. Volunteer fire departments have traditionally benefited from the donation of surplus or used equipment when professional fire departments or firefighting units of private enterprises upgrade or replace their own equipment. Surplus equipment may include hoses, oxygen masks, protective clothing or even fire trucks. However, today, some of this needed, usable, and safe equipment is being destroyed or put in storage by the better-equipped fire units instead of being donated to the volunteer departments.

Many times donations never occur because of the fear of legal liability exposure if such equipment were ever to fail, even through no fault of the donor. The legislation before us would remove both the fear and reality of such liability for potential donors of fire safety or fire rescue equipment to volunteer departments.

The bill before us is a good, commonsense idea, but not an entirely original one. Ten States have already passed versions of this legislation at the State level. Texas, most notably, passed a law 7 years ago granting liability relief to donors of firefighting equipment that have resulted in approximately $13 million worth of donations to over a thousand volunteer departments since 1997. However, volunteer firefighter advocates do not have the resources to wage legislative campaigns in the remaining 40 States.

At a time when the Federal Government is more involved than ever in funding local first responders, Congress

has the responsibility to do whatever it can to help volunteer firefighters get better equipment at zero taxpayer cost. What the bill does is simply provide that a person or entity who donates fire control or rescue equipment to a volunteer department will not be liable for civil damages for damage or loss proximately caused by the equipment after donation.

Despite some allegations by trial lawyers and other opponents, what the bill does not do is to protect the manufacturer of such equipment. It does not protect any donor whose actual mission constitutes gross negligence or intentional misconduct. Furthermore, the bill does not endanger the safety of firefighters. As Chief Stittleburg testified at the committee's hearing, fire chiefs are responsible for inspecting donated and purchased equipment alike, and no chief would allow their firefighters to answer an alarm using equipment that was not properly inspected and deemed fit for use.

Given a choice between no equipment and donated equipment that they inspect before using, volunteer fire departments are clearly in favor of the latter. And given a choice between believing trial lawyers versus volunteer firefighters about the need for use and safety of donated equipment, I will choose the latter.

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Mr. Speaker, today we have an opportunity to provide some limited, commonsense relief to Good Samaritan donors of needed equipment to Members' own local fire departments and to the communities that rely upon volunteer firefighters. I urge my colleagues to join me in supporting H.R. 1787.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I oppose this legislation. While I salute the hard work of our volunteer firefighters, it appears to me we have before us a very extreme solution to a problem that does not exist. Although H.R. 1787 is supposed to encourage donation of firefighting equipment by eliminating civil liability barriers, there are no reported cases of businesses refusing to donate equipment, nor cases of volunteer firefighting companies suing their donors. The so-called problem could be solved without congressional action.

First, we heard during our committee deliberations that a volunteer fire department could simply sign a contract waiving liability of the donors from negligence resulted from the donated firefighting equipment. This tactic would ensure that fire companies are informed and have consented to the immunity of the donor. We do not have to mandate the immunity. They can agree to it if they want or if the donor insists.

Furthermore, Mr. Speaker, this is not a Federal issue. It is a matter that can be dealt with by the States. There is nothing Federal about local volunteer fire departments. This liability issue is a State issue, and the gentleman from Wisconsin (Mr. SENSENBRENNER) has pointed out that many States have already dealt with the issue on a State basis. Companies should not be given blanket immunity for donating fire equipment. While it may be true that most of the equipment is perfectly usable, companies should be prevented from donating obsolete equipment known to be of dubious safety. Certain equipment, like protective gear and breathing apparatus, can deteriorate over time and may not be suitable for reuse.

With all of the other pertinent issues we have before Congress, I find it problematic that we are focusing our attention and problems on something that is frankly not a problem. I urge my colleagues to reject this bill which may in fact endanger firefighters.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Delaware (Mr. CASTLE), the author of the bill.

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding. I rise in support of the legislation which I introduced, the Good Samaritan Volunteer Firefighter Assistance Act, and I find it stunning that anyone would oppose this legislation. It just never occurred to me that could happen.

The legislation removes a barrier which currently prevents some organizations from donating surplus firefighting equipment to fire departments in need. Under current law, the threat of civil liability has caused some organizations to destroy fire equipment rather than donating it to volunteer rural and other financially strapped departments.

We know that every day across the United States, firefighters respond to calls for help. We are grateful that these brave men and women work to save our lives and protect our homes and businesses. We may presume that firefighters work in departments with the latest and best firefighting and protective equipment when in reality there are an estimated 30,000 firefighters who risk their lives daily due to a lack of basic personal protective equipment.

In both rural and urban fire departments, limited budgets make it difficult to purchase more than fuel and minimum maintenance. There is rarely enough money to buy new equipment. At the same time, certain industries are constantly improving and updating their fire protection equipment to take advantage of new state-of-the-art innovation. Sometimes the surplus equipment has never been used to put out a single fire. Sadly, the threat of civil liability causes many organizations to destroy, rather than donate, millions of dollars of quality fire equipment.

Not only do volunteer fire departments provide an indispensable service, some estimates indicate that the nearly 800,000 volunteer firefighters nationwide save State and local governments $36.8 billion a year. Of the 26,000 fire departments in the United States, more than 19,000 are all volunteers and another 3,800 are mostly volunteer. While volunteering to fight fires, these same selfless individuals are asked to raise funds to pay for new equipment. Bake sales, potluck dinners, and raffles consume valuable time that could be better spent training to respond to emergencies. All this, while surplus equipment is being destroyed.

In States that have removed liability barriers, such as Texas, fire companies have received millions of dollars in quality firefighting equipment. In the 7 years of the Texas program, more than $12 million worth of firefighter equipment has been donated and given to needy departments. This includes nearly 70 emergency vehicles and more than 1,500 pieces of communications equipment. In total more than 33,000 items have been donated.

The generosity and goodwill of private entities donating surplus fire equipment to volunteer fire companies are well received by the firefighters and the communities. The donated fire equipment will undergo a safety inspection by the fire company to make sure firefighters and the public are safe.

We can help solve this problem. Congress can respond to the needs of fire companies by removing civil liability barriers. This bill accomplishes this by raising the current liability standard.

Mr. Speaker, I hope all of my colleagues will join me in supporting this bipartisan legislation to better equip our Nation's firefighters.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I understand it, the threat of civil liability causes some to think twice about donating dangerous equipment, equipment which may place our firefighters in danger. If this bill passes, they will not have to be concerned about donating dangerous equipment. I am not sure that is a good thing. I would hope that we would defeat the bill, allow the volunteer firefighters to waive liability if they see fit, but not impose this mandated waiver on everybody whether they want it or not.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the choice in this bill is either pass the bill and allow for the donation of the equipment, or do not pass the bill and no equipment is going to be donated at all because the donor does not want to be on the hook for a civil liability lawsuit merely as a result of the donation.

This bill does not immunize the manufacturer of the equipment so if the equipment was defectively manufactured, a lawsuit would still lie against

that manufacturer for either product liability or negligence.

The gentleman from Virginia (Mr. SCOTT) also says, well, the way to deal with this is to defeat the bill and have every volunteer fire company sign a waiver when they receive donated equipment. Well, that means that there is going to have to be a lawyer sitting in the firehouse drafting these waiver documents. Most of the volunteer fire companies that I am familiar with in my State, and I do not think they are any different from volunteer fire companies in other States, are staffed entirely by volunteers. These are people who donate their time to deal with emergency situations. Many of the volunteer fire companies in Wisconsin also run the first responder and emergency medical technician teams, and they ought to be spending their time and efforts doing training and raising money to purchase equipment that could not be donated, rather than paying for lawyers' fees to draft up waiver of liability agreements.

I think this is a very sound bill. It is a commonsense bill. It should be passed.

Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for yielding me this time.

I really find it amazing that anyone would come to the floor and vote against this legislation. There are nine States which have this in place at this time, and they are large States. I mentioned Texas, but there are also other large States such as Florida and California.

This is clearly something which has worked in these States. They have received contributions of communications and firefighting equipment. In most instances, it is far better equipment than what they have already. In every single case, the fire companies inspect the equipment to make sure it is safe, contrary to what the gentleman from Virginia (Mr. SCOTT) has stated regarding the safety aspects. In the research I have done, it has proven to be extremely safe.

But a lot of companies, frankly, in other States, corporations, absolutely refuse to make donations because they are worried about liability. We are simply trying to clear the way to do that. What is in the best public interest, to worry that somebody does not inspect the equipment properly, that is just not very likely to happen, or saving people's lives in firefighting, which is really what this legislation is all about.

There is no doubt the scale on this one is overwhelming in terms of doing something such as this. This protects the donor only, not the manufacturer. No one is donating dangerous equipment in this particular circumstance. There is no reason whatsoever not to support this legislation, not to support the volunteer firefighters, not to support the public who will benefit from this, not to support the use of the equipment rather than destroying the equipment because of concern about litigation and concerns such as those.

Mr. Speaker, for all these reasons, I hope when the time comes there is only one vote against this, and that is the gentleman from Virginia, and all other Members are aware of the benefits and what this legislation does.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this legislation, H.R. 1787, the Good Samaritan Volunteer Firefighter Assistance Act of 2003, but will express the reservations that I had during the Judiciary Committee oversight and markup hearings. The purpose of this legislation—purportedly, is to ensure that an individual or entity that donates fire control or fire rescue equipment to a volunteer fire company is not held liable for State or Federal civil damages for personal injuries, property damage or loss, or death caused by the equipment after the donation.

On its face, this legislation has beneficial purpose, that is, to encourage large companies that own new or virtually new equipment to donate it to rural area fire companies or those that lack resources. This purpose is definitely consistent with America's need to support its first responders as terror threats continue to loom and cause continual rise in threat level.

However, records—or the lack of record shows that there is currently no need for this legislation. There have been no reported cases of volunteer firefighting companies bringing suit to recover from damages caused by defective equipment. Moreover, we have no record of numbers of companies that have refused to donate their used or new fire equipment to volunteer fire companies.

This legislation preempts State law in terms of shielding donors of equipment from liability. We in Congress have a duty to uphold the Constitution, and given the lack of immediate need, it seems "frivolous" to contravene the 10th amendment and erode the rights of the individual States to handle matters relating to their local firevcompanies.

In Texas, this issue is already legislatively addressed in 1997, as it is in the States of Alabama, Arizona, Arkansas, California, Florida, Illinois, Indiana, Missouri, and South Carolina. Therefore, if we refrain from taking this unnecessary congressional action, other States will follow suit and pass similar measures to achieve positive results.

Therefore, I would have offered two amendments. I would have offered an amendment that would limit this legislation to situations where the donee has not executed a waiver of liability.

The text of the first amendment read "if the volunteer fire company waives all liability claims against the donor with respect to that equipment."

This amendment would have appropriately narrowed the scope of this legislation by specifying that a donor of fire equipment will be exempt from liability only if the donee fire company has executed a waiver of liability. Moreover, by adding this provision, "frivolous lawsuits" would be prevented with minimal congressional action and with minimal effects on the 10th amendment to the Constitution.

Additionally, this amendment would have protected both the donor and the donee by requiring a legal showing that there was acceptance as to the quality of the equipment donated in any given circumstance.

I also planned to offer an amendment that called for the State-by-State review of the amount of equipment donated to volunteer firefighter companies for 5 years after enactment of H.R. 1787. This provision would have shown the public the results of this legislation in order to reveal its effectiveness or the lack thereof. The second part of this amendment would have required the Attorney General to submit a report to Congress of the results of the State-by-State review.

The Jackson-Lee "State review" amendment would have allowed Congress to clearly analyze how our first responders benefit from this legislation against the effects it will have on the execution of State law. If the legislation fails to serve its purported purpose, the study would have clearly revealed it to Congress so that corrective measures may be taken.

The two amendments above would have helped to narrow the scope of this vague legislation as well as to even the scale for the donee firefighting corporation as well as the donor. It is critical that we protect and preserve the rights of the individual States as well, consistent with the 10th amendment to the U.S. Constitution.

Nevertheless, I ask that my colleagues support this legislation recognizing the points that I have made above.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1787, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

VOLUNTEER PILOT ORGANIZATION PROTECTION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1084) to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations, as amended.

The Clerk read as follows:

H.R. 1084

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Volunteer Pilot Organization Protection Act of 2004''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Scores of public benefit nonprofit volunteer pilot organizations provide valuable services to communities and individuals.

(2) In calendar year 2001, nonprofit volunteer pilot organizations provided long-distance, no-cost transportation for over 30,000 people in times of special need.

(3) Such organizations are no longer able to reasonably purchase non-owned aircraft liability insurance to provide liability protection, and thus face a highly detrimental liability risk.

(4) Such organizations have supported the interests of homeland security by providing volunteer pilot services at times of national emergency.

(b) PURPOSE.—The purpose of this Act is to promote the activities of nonprofit volunteer pilot organizations flying for public benefit and to sustain the availability of the services that such organizations provide, including transportation at no cost to financially needy medical patients for medical treatment, evaluation, and diagnosis, as well as other flights of compassion and flights for humanitarian and charitable purposes.

SEC. 3. LIABILITY PROTECTION FOR NONPROFIT VOLUNTEER PILOT ORGANIZATIONS FLYING FOR PUBLIC BENEFIT AND TO PILOTS AND STAFF OF SUCH ORGANIZATIONS.

Section 4 of the Volunteer Protection Act of 1997 (42 U.S.C. 14503) is amended—

(1) in subsection (a)(4)—

(A) by redesignating subparagraphs (A) and (B) as (i) and (ii), respectively;

(B) by inserting ''(A)'' after ''(4)'';

(C) by striking the period at the end and inserting ''; or'' and

(D) by adding at the end the following:

''(B) the harm was caused by a volunteer of a nonprofit volunteer pilot organization that flies for public benefit, while the volunteer was flying in furtherance of the purpose of the organization and was operating an aircraft for which the volunteer was properly licensed and insured.''; and

(2) in subsection (c)—

(A) by inserting ''(1)'' before ''Nothing''; and

(B) by adding at the end the following new paragraph:

''(2) Notwithstanding paragraph (1), a nonprofit volunteer pilot organization that flies for public benefit, and the staff, mission coordinators, officers, and directors (whether volunteer or otherwise) of such organization or a referring agency of such organization, shall not be liable with respect to harm caused to any person by a volunteer of such organization, while the volunteer is flying in furtherance of the purpose of the organization and is operating an aircraft for which the volunteer is properly licensed and has certified to such organization that such volunteer has in force insurance for operating such aircraft.''.

SEC. 4. REPORT BY ATTORNEY GENERAL.

(a) STUDY REQUIRED.—The Attorney General shall carry out a study on the availability of insurance to nonprofit volunteer pilot organizations that fly for public benefit. In carrying out the study, the Attorney General shall make findings with respect to—

(1) whether nonprofit volunteer pilot organizations are able to obtain insurance;

(2) if no, then why;

(3) if yes, then on what terms such insurance is offered; and

(4) if the inability of nonprofit volunteer pilot organizations to obtain insurance has any impact on the associations' ability to operate.

(b) REPORT.—After completing the study, the Attorney General shall submit to Congress a report on the results of the study. The report shall include the findings of the study and any conclusions and recommendations that the Attorney General considers appropriate.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1084, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge my colleagues to support H.R. 1084, the Volunteer Pilot Organization Protection Act of 2004. I would like to thank the bill's sponsors, the gentleman from Virginia (Mr. SCHROCK), and also the other gentleman from Virginia (Mr. FORBES), for their work in bringing this legislation before us.

The bill provides limited liability relief for volunteer pilot and volunteer pilot organizations that do some of the most invaluable and unappreciated volunteer work in the Nation. The legislation is intended to promote the publicly beneficial activities of volunteer pilot organizations and their employees and members by exempting them from liability when flying volunteer missions in furtherance of the purpose of such organizations.

Volunteer pilot organizations and the pilots who fly for them are involved in a range of activities constituting what generally may be called public benefit aviation. The activities of public benefit aviation include environmental observation, wilderness rescue, delivery of medical supplies and organs, and transporting medical patients. In the area of medical patient transport alone, volunteer pilot organizations provided long-distance transportation for free to over 40,000 patients and their escorts in 2003.

Since the activities of volunteer pilot organizations are not protected from liability by the Volunteer Protection Act, they are exposed to significant liability risks leading many insurers to drop coverage for those pilots and organizations. In addition, hospitals and other medical establishments are leery of referring patients to volunteer pilot medical transport services because of their own fear of liability exposure based upon the simple act of recommendation.

The legislation limits liability exposure for volunteer pilots and organizations by bringing them within the scope of coverage of the Volunteer Protection Act. This legislation will not confer blanket immunity. Liability will still attach for gross negligence or reckless misconduct. The bill would also have an added benefit of allowing hospitals, clinics, and other organizations to refer needy patients for no-cost medical transport with less fear of their own liability exposure.

The bill is supported by a wide array of charitable organizations, including the National Association of Hospital Hospitality Houses, the Children's Organ Transplant Association, the Health and Medical Research Charities of America, the National Organization For Rare Disorders, the National Foundations For Transplant, the Independent Charities of America, the Air Care Alliance, and others.

Mr. Speaker, H.R. 1084 will end the cycle of litigation that has stifled the efforts of the brave and public-minded volunteer pilots who risk their own lives by flying patients so the patients they serve might have a chance to live. I urge support of the legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1145

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, unlike many of the others, this bill is narrowly drawn, and it is my understanding, and my colleague from Virginia, I think, can correct me if I am wrong, but the usual problem we have in this case is you have an injured party without any recourse at all.

This bill requires insurance on the part of the pilot. And so if there is negligence, the injured party does have recourse. He has recourse against the insurance policy, but he does not have recourse, in the bill, to the organization, the volunteer organization that just matched the pilot and the injured party together, so that the party, injured through ordinary negligence, would have recourse against the insurance policy covering the airplane and the pilot.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. FORBES), one of the authors of the bill.

Mr. FORBES. Mr. Speaker, several days before Christmas, the phone rang at Angel Flight, and the voice on the other end of the line said she only had 4 weeks to live. Her only hope was receiving an experimental drug treatment in San Antonio, but with a mountain of medical bills, she could not afford the flight.

A few minutes later, an urgent e-mail would go out. Responses would come back in, and within a few hours, a pilot would be located. The patient would be flown to San Antonio for treatment. And upon arrival, a car would be waiting to drive her to the hospital. She would never see a bill for any of her transportation.

Angel Flight is a nonprofit organization that offers free, long-distance transportation for medical care and removes the financial burden from patients. Its volunteer pilots are stockbrokers, realtors, private businessmen, retired Air Force pilots, commercial pilots, lawyers and doctors and others.

Every year, on their free time, these pilots fly over 10,000 patients nationwide. Some pilots fly one or two mercy flights a year. Others may fly as many as 50 flights. All are flown at the pilot's expense.

Angel Flight is just one organization involved in nonprofit public-benefit flying. Last year, volunteer pilot organizations provided long-distance, no-cost transportation for over 40,000 patients and their escorts in times of special need. Other organizations flew missions ranging from environmental observation to organ transportation. Following the terrorist attacks of September 11, significant quantities of blood and blood products were transported by volunteer pilots.

In the last several years, however, in part due to the fear of litigation, yearly insurance once available for $1,000 has skyrocketed to more than $25,000 a year even though there was no evidence presented to the Judiciary Committee of any negligence committed by any of these pilots or their organizations. Not only are talented volunteers afraid of flying mercy flights for fear of being sued, most of the organization's nonflying staff cannot afford liability protection.

Mr. Speaker, today, we consider legislation to address this serious problem sponsored by my colleague from Virginia (Mr. SCHROCK). H.R. 1084 will create specific liability protection for nonprofit volunteer pilot organizations flying for the public's benefit. It will ensure that, when these pilots take to the skies, the only thing on their mind is getting that patient to the treatment they need. And ultimately, it will encourage others to join them in this network of charity.

Without H.R. 1084, the Volunteer Pilot Organization Protection Act, we risk that these charitable organizations will no longer be able to provide their important services, and tens of thousands of people who benefit from their work will be unable to obtain the medical care they desperately need.

Equally important, without this and other vital legislation aimed at curbing lawsuit abuse, we risk the possibility that America's abundant tradition of generosity and charity will be undermined by a few who use the judicial system for the wrong purposes. I urge my colleagues to vote in favor of H.R. 1084 to keep these committed volunteers in our skies and keep America's spirit of generosity flying high.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 6 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to add my support to this legislation.

I had concerns about it, because I am always concerned when we have a dilemma between helping and providing good things and good activities juxtaposed, if you will, or conflicted with the idea of closing out rights of the injured.

But in any event, I believe that the ultimate goal of this legislation is to enhance the needed services to communities in need, and therefore, I think it is important to promote the activities of our nonprofit pilot organizations as we should protect all of our nonprofit organizations as we can in balance with the need to be able to address our grievances.

I think it is important to make note of a valuable point made by the distinguished ranking member of the Subcommittee on Crime, and that is that this legislation does have and provide for coverage and insurance by these pilots. In Texas, for example, the Angel Flight South Central was established in 1991 as Angel Flight of Texas, a nonprofit corporation. Its pilots use their flying skills to provide transportation to medical treatment for seriously ill or injured people who are geographically isolated or are in financial need.

This organization serves institutions such as the M.D. Anderson Cancer Center located in Houston, Texas, and the University of Texas Health Medical Branch of Galveston in Galveston, Texas, among many others. Therefore, I would want to make all efforts to support organizations such as Angel Flight. However, we must carefully weigh the benefits of selfless acts of others with the need to craft narrowly tailored legislation that protects all parties equally.

H.R. 1084 as drafted requires serious analysis and amendment by this committee. Section 3 as drafted departs from the 1997 Volunteer Protection Act by shielding not only the volunteer pilot from liability but also the staff, mission coordinator, officer or director of the nonprofit organization.

This expansion of protection, as I indicated in my earlier remarks, seems a little bit too broad. An injured party has a right to bring a claim for recovery of damages against some principal of the nonprofit organization or responsible party. And the courts, I believe, should retain discretion as to whether it will hear the matter. I would hope, as this legislation moves through the Congress, through the Senate and ultimately, finally passed, that we will have the opportunity to look at this again.

Congress should legislate when necessary, especially in areas of the law that affect an individual's right to sue for damages. To date, there has been no reported civil liability case filed against a volunteer pilot or against a volunteer pilot organization. Furthermore, 43 States, which include Texas, have passed legislation that deals with volunteer liability. Therefore, this committee and this body, as this legislation moves, should again make sure that all of these matters are taken care of.

I would hope that, also, the issues dealing with the liability would be considered. I had concerns and had amendments in committee that would have narrowed the scope of the liability protection given to volunteers of nonprofit pilot organizations to cover persons within the aircraft only. The rights of the bystander who is not inside the aircraft and who might be injured through the negligence of the pilot should be preserved given that no compelling justification has been given to include those outside the aircraft. I hope, maybe, in the final writing of this bill that that matter were handled and, if not, that it will be taken care of as it moves, as I said, through the Congress.

Mr. Speaker, in addition, the appropriate scope of this legislation should be the volunteer injured person, for policy reasons. One of the purported purposes of this legislation was to encourage continued service to individuals in rural areas who do not have the financial means to receive this service otherwise. The proposed language that I spoke about earlier of the concept of bystander would still again provide more clarified aspects to this legislation.

It is important as well to make sure that we cover issues dealing with terrorism and misuse of airplanes. Again, I hope that these issues may be ironed out because they are important points that were raised.

Overall, however, as I started, knowing that Angel Flight of Texas, Incorporated, as one of many nonprofit volunteer pilots organizations around the Nation, needs our concern about them being able to provide life and safety to those who are seeking medical care and other needs, I think this legislation on its face is important and deserves our support.

Mr. Speaker, I add my support to this legislation and would hope that, as it makes its way to its final signing, that it will have all these issues that we have spoken of and raised concerns about taken care of so that the legislation can serve our communities and our Nation.

Mr. Speaker, I rise in support of the bill before the House, H.R. 1084, the Volunteer Pilot Organization Protection Act, although I had reservations about certain of its provisions during Committee consideration. It is important that we promote the activities of our nonprofit pilot organizations—as we should protect all of our nonprofit organizations as a whole, especially when they provide a service that facilitates the protection of our homeland at a time like now when our vulnerabilities are at a high level.

In Texas, Angel Flight South Central was established in 1991 as Angel Flight of Texas, Inc., a 501(c)(3) non-profit corporation. Its pilots use their flying skills to provide transportation to medical treatment for seriously ill or injured people who are geographically isolated or are in financial need. This organization serves institutions such as the M.D. Anderson Cancer Center, located in Houston, Texas and the University of Texas Health Medical Branch of Galveston in Galveston, Texas, among many others. Therefore, I would want to make all efforts to support organizations such as Angel Flight.

However, we must carefully weigh the benefits of selfless acts of others with the need to craft narrowly tailored legislation that protects

all parties equally. H.R. 1084, as drafted, requires serious analysis and amendment by this committee.

Section 3, as drafted, departs from the 1997 Volunteer Protection Act by shielding not only the volunteer pilot from liability but also the staff, mission coordinator, officer, or director of the nonprofit organization. This expansion of protection is far too broad to justify the proposed benefits it intends to confer. An injured party has a right to bring a claim for recovery of damages against some principal of the nonprofit organization or responsible party, and the Courts should retain discretion as to whether it will hear the matter.

Congress should legislate when necessary, especially in areas of the law that affect individuals' right to sue for damages. To date, there has been no reported civil liability case filed against a volunteer pilot or against a volunteer pilot organization. Furthermore, 43 states, which include Texas, have passed legislation that deals with volunteer liability. Therefore, this Committee has no immediate need to consider this legislation and can better spend its time working on legislation to implement the recommendations of the 9/11 Commission or other similar legislative agendas.

Therefore, I would have offered two amendments. I would have offered an amendment that would have narrowed the scope of the liability protection given to volunteers of nonprofit pilot organizations to cover persons within the aircraft only. The rights of the bystander who is not inside the aircraft and who might be injured through the negligence of the pilot should be preserved given that no compelling justification has been given to include those outside the aircraft, from relief.

In addition, the appropriate scope of this legislation should be the volunteer-injured person for policy reasons. One of the purported purposes of this legislation is to encourage continued service to individuals in rural areas or who do not have the financial means to receive this service otherwise.

The proposed language of my ''bystander'' amendment would have clarified and narrowed the scope of this legislation.

I also planned to offer an amendment that would prevent perpetrators of hate crimes in the last 5 years (as defined in the Hate Crime Statistics Act) from receiving the benefits of this legislation. This Act defines ''hate crimes'' as those which ''manifest prejudice based on race, religion, sexual orientation, disability or ethnicity.''

In 1991, the FBI documented a total of 4,558 hate crimes, reported from nearly 2,800 police departments in 32 states. The FBI's most recent HCSA report, for 1996, documented 8,759 hate crimes reported to the FBI by 11,355 agencies across the country.

Because the incidence of hate crimes is so large and an aircraft has been demonstrated to be a highly effective instrumentality of terrorist offenses, no one convicted of a hate crime should be allowed to benefit under this legislation or a pilot.

While I have reservations about certain provisions of this proposal, I recognize the benefits that it can bring to injured parties. Therefore, I ask that my colleagues support this legislation.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

This bill is narrowly drawn and is different from the other bills because victims of negligence will have recourse. It is similar to Good Samaritan State laws that immunize volunteers but fails to immunize them from automobile accidents because there is an expectation that the automobile will have insurance. So victims of the negligence will have recourse.

This bill requires insurance so victims, either on the plane or on the ground, will have recourse against the insurance policy but not against the volunteer organization. That is an appropriate balance, and I support the legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think we should make it very clear that this bill is narrowly drawn. There is liability to the volunteer pilot for willful or criminal misconduct, gross negligence, reckless misconduct or conscious flagrant indifference to the rights and safety of the individual that is harmed by the volunteer. Anything that rises above ordinary negligence, there is no immunity involved.

I guess I would be remiss if I did not express my concern that there have been allegations that passing this bill will increase the risk of terrorism. The volunteer pilots who fly these important missions are carefully screened professionals. They undergo background checks that are above and beyond those that are required for licensure as a pilot, and many of the pilots who do volunteer their services are commercial pilots when they are being paid. I think that the checks that a terrorist could slip through are so severe that the chances of that happening really do not exist at all.

I take great umbrage at the notion that the passage of this bill, which provides a limited immunity from liability, opens the door, even a crack, to increased risk of terrorism in the airways. I would hope that the House would reject this notion by passing this bill overwhelmingly.

Mr. CONYERS. Mr. Speaker, I cannot support H.R. 1084, the ''Volunteer Pilot Organization Protection Act'' for the following reasons: First, it undoes the balance achieved in the Volunteer Protection Act by specifically exempting pilots and aircraft carriers from liability; second, it not only applies to pilots, but also to staff, mission coordinators, officers and directors of volunteer pilot organizations, and referring agencies, whether for profit or not-for-profit; third, it would leave innocent victims without recourse in some situations by reducing the standard of care applicable to pilots; fourth, it does nothing to tackle the real problem, which is the insurance industry's failure to offer insurance to the volunteer pilot organizations; finally, it is poorly drafted and includes loopholes that would insulate international terrorist organizations from liability and subjects innocent bystanders to harm without any recourse.

H.R. 1084 flies in the face of the Volunteer Protection Act, a bill Congress passed into law after 8 years of debate extending over 5 Congresses. The Volunteer Protection Act was carefully deliberated and negotiated, but this bill wipes the slate clean by giving volunteer pilots protection from liability despite the fact that the Volunteer Protection Act specifically excluded that category of volunteers from protection.

Under the Volunteer Protection Act, pilots and those operating aircraft were specifically left out of the liability exemption because of the highly dangerous nature of the activity and the fact that States require these pilots to have insurance. This bill undoes that and exempts pilots from liability.

Moreover, it goes further than the Volunteer Protection Act was willing to go by giving this exemption to not only the pilots, but also to staff, mission coordinators, officers and directors of volunteer pilot organizations, and referring agencies, whether for profit or not-for-profit. In the Volunteer Protection Act, Congress made sure that it was only the volunteers being protected.

Finally, H.R. 1084 does nothing to tackle the real problem, which is the insurance industry's failure to offer insurance to the volunteer pilot organizations. In testimony we heard on this bill, it was suggested that these nonprofit volunteer pilot organizations need liability protection because they can't get insurance. If this is the case, why not have a bill that requires insurance agencies to offer insurance to these organizations? Why not that instead of exempting everyone under the sun from liability?

This bill establishes national policy specifically allowing certain pilots to operate their aircraft negligently and still escape liability. And by immunizing both the negligent pilot and the organization that arranges and provides the transportation, this bill will in many cases leave the victims of an air tragedy—and their surviving families—with no means of seeking compensation for their loss. Congress should not turn its back on the victims of air tragedies.

For these reasons, I cannot support passage of this bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1084, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed. Votes will be taken in the following order:

H. Res. 766, by the yeas and nays;

Motions to suspend the rules and pass:

H.R. 3369, by the yeas and nays;

H.R. 1787, by the yeas and nays;

H.R. 1084, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF H.R. 4571, LAWSUIT ABUSE REDUCTION ACT OF 2004

The SPEAKER pro tempore. The pending business is the vote on the adoption of House Resolution 766 on which further proceedings were postponed earlier today.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on resolution on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 228, nays 165, not voting 40, as follows:

[Roll No. 444]

YEAS—228

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Biggert
Bilirakis
Bishop (UT)
Blunt
Boehner
Bonilla
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (CA)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hyde
Isakson
Israel
Issa
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McKeon
McNulty
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Osborne
Ose
Otter
Pascrell
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—165

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Costello
Cummings
Davis (AL)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinchey
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Jones (OH)
Kanjorski
Kilpatrick
Kind
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Ortiz
Pallone
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Sherman
Skelton
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—40

Ackerman
Ballenger
Beauprez
Blackburn
Boehlert
Bonner
Cannon
Clay
Clyburn
Conyers
Crowley
Engel
Gephardt
Goss
Greenwood
Hastings (FL)
Hinojosa
Hoeffel
Houghton
Hunter
Istook
Johnson, E. B.
Kaptur
Kennedy (RI)
Kleczka
Langevin
McInnis
Owens
Oxley
Pryce (OH)
Quinn
Rogers (KY)
Rohrabacher
Schrock
Serrano
Slaughter
Tauzin
Towns
Velázquez
Whitfield

□ 1222

Mr. WYNN, Ms. ESHOO, and Mr. THOMPSON of California changed their vote from ''yea'' to ''nay.''

Mr. MOORE changed his vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 444, had I been present, I would have voted "no."

NONPROFIT ATHLETIC ORGANIZATION PROTECTION ACT OF 2003

The SPEAKER pro tempore (Mr. OSE). The pending business is the question of suspending the rules and passing the bill, H.R. 3369.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3369 on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 217, nays 176, not voting 40, as follows:

[Roll No. 445]

YEAS—217

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blunt
Boehner
Bonilla
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hyde
Isakson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Matheson
McCotter
McCrery
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Ros-Lehtinen
Royce
Ryan (WI)

Ryun (KS)
Sandlin
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—176

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Clyburn
Cooper
Costello
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Dooley (CA)
Doyle
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hill
Hinchey
Hinojosa
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind
King (NY)
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Otter
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sherman
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Terry
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOT VOTING—40

Ackerman
Ballenger
Beauprez
Blackburn
Boehlert
Bonner
Cannon
Clay
Conyers
Crowley
Dicks
Dunn
Engel
Gephardt
Goss
Greenwood
Hastings (FL)
Hoeffel
Houghton
Hunter
Issa
Istook
Johnson, E. B.
Kennedy (RI)
Kleczka
Langevin
McInnis
Owens
Pryce (OH)
Rogers (KY)
Rohrabacher
Ruppersberger
Schrock
Serrano
Slaughter
Smith (MI)
Tauzin
Towns
Velázquez
Whitfield

□ 1230

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. RUPPERSBERGER. Mr. Speaker, I was in a meeting with constituents and missed roll-call vote 445. If I was present for the vote I would have voted "yea" on H.R. 3369, the Nonprofit Athletic Organization Protection Act.

GOOD SAMARITAN VOLUNTEER FIREFIGHTER ASSISTANCE ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1787, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1787, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 397, nays 3, not voting 33, as follows:

[Roll No. 446]

YEAS—397

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Nadler
Paul
Scott (VA)

NOT VOTING—33

Ackerman
Ballenger
Beauprez
Blackburn
Boehlert
Bonner
Cannon
Clay
Conyers
Crowley
Engel
Gephardt
Goss
Greenwood
Harris
Hastings (FL)
Hoeffel
Houghton
Hunter
Johnson, E. B.
Kennedy (RI)
Kleczka
Langevin
McInnis
Owens
Rogers (KY)
Schrock
Serrano
Slaughter
Tauzin
Towns
Velázquez
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DUNCAN) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1238

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VOLUNTEER PILOT ORGANIZATION PROTECTION ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1084, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1084, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 385, nays 12, not voting 36, as follows:

[Roll No. 447]

YEAS—385

Abercrombie	Castle	Forbes
Aderholt	Chabot	Ford
Akin	Chandler	Fossella
Alexander	Chocola	Frank (MA)
Allen	Clyburn	Franks (AZ)
Andrews	Coble	Frelinghuysen
Baca	Cole	Frost
Baird	Collins	Gallegly
Baker	Cooper	Garrett (NJ)
Baldwin	Costello	Gerlach
Barrett (SC)	Cox	Gibbons
Bartlett (MD)	Cramer	Gilchrest
Barton (TX)	Crane	Gillmor
Bass	Crenshaw	Gingrey
Becerra	Cubin	Gonzalez
Bell	Culberson	Goode
Berkley	Cummings	Goodlatte
Berman	Cunningham	Gordon
Berry	Davis (AL)	Granger
Biggert	Davis (CA)	Graves
Bilirakis	Davis (FL)	Green (TX)
Bishop (GA)	Davis (IL)	Green (WI)
Bishop (NY)	Davis (TN)	Grijalva
Bishop (UT)	Davis, Jo Ann	Gutierrez
Blumenauer	Davis, Tom	Gutknecht
Blunt	Deal (GA)	Hall
Boehner	DeFazio	Harman
Bonilla	DeGette	Harris
Bono	Delahunt	Hart
Boozman	DeLauro	Hastings (WA)
Boswell	DeLay	Hayes
Boucher	DeMint	Hayworth
Boyd	Deutsch	Hefley
Bradley (NH)	Diaz-Balart, L.	Hensarling
Brady (PA)	Dicks	Herger
Brady (TX)	Dingell	Herseth
Brown (OH)	Doggett	Hill
Brown (SC)	Dooley (CA)	Hinojosa
Brown, Corrine	Doolittle	Hobson
Brown-Waite, Ginny	Doyle	Hoekstra
	Dreier	Holden
Burgess	Duncan	Holt
Burns	Dunn	Honda
Burr	Edwards	Hooley (OR)
Burton (IN)	Ehlers	Hostettler
Butterfield	Emanuel	Hoyer
Buyer	Emerson	Hulshof
Calvert	English	Hyde
Camp	Eshoo	Inslee
Cantor	Etheridge	Isakson
Capito	Evans	Israel
Capps	Everett	Istook
Capuano	Farr	Jackson (IL)
Cardin	Fattah	Jackson-Lee (TX)
Cardoza	Feeney	
Carson (IN)	Ferguson	Jefferson
Carson (OK)	Filner	Jenkins
Carter	Flake	John
Case	Foley	Johnson (CT)
Johnson (IL)	Moran (KS)	Schakowsky
Johnson, Sam	Moran (VA)	Schiff
Jones (NC)	Murphy	Scott (GA)
Jones (OH)	Murtha	Scott (VA)
Kanjorski	Musgrave	Sensenbrenner
Kaptur	Myrick	Sessions
Keller	Napolitano	Shadegg
Kelly	Neal (MA)	Shaw
Kennedy (MN)	Nethercutt	Shays
Kildee	Neugebauer	Sherman
Kilpatrick	Ney	Sherwood
Kind	Northup	Shimkus
King (IA)	Norwood	Shuster
King (NY)	Nunes	Simmons
Kingston	Nussle	Simpson
Kirk	Oberstar	Skelton
Kline	Obey	Smith (MI)
Knollenberg	Olver	Smith (NJ)
Kolbe	Ortiz	Smith (TX)
Kucinich	Osborne	Smith (WA)
LaHood	Ose	Snyder
Lampson	Otter	Solis
Lantos	Oxley	Souder
Larsen (WA)	Pallone	Spratt
Larson (CT)	Pascrell	Stearns
Latham	Pastor	Stenholm
LaTourette	Payne	Strickland
Leach	Pearce	Stupak
Lee	Pelosi	Sullivan
Levin	Pence	Sweeney
Lewis (CA)	Peterson (PA)	Tancredo
Lewis (GA)	Petri	Tanner
Lewis (KY)	Pickering	Tauscher
Linder	Pitts	Taylor (MS)
Lipinski	Platts	Taylor (NC)
LoBiondo	Pombo	Thomas
Lowey	Pomeroy	Thompson (CA)
Lucas (KY)	Porter	Thompson (MS)
Lucas (OK)	Portman	Thornberry
Lynch	Price (NC)	Tiahrt
Majette	Pryce (OH)	Tiberi
Maloney	Putnam	Tierney
Marshall	Quinn	Toomey
Matheson	Radanovich	Turner (OH)
Matsui	Rahall	Turner (TX)
McCarthy (MO)	Ramstad	Udall (CO)
McCarthy (NY)	Rangel	Udall (NM)
McCollum	Regula	Upton
McCotter	Rehberg	Van Hollen
McCrery	Renzi	Visclosky
McDermott	Reyes	Vitter
McGovern	Reynolds	Walden (OR)
McHugh	Rodriguez	Walsh
McIntyre	Rogers (AL)	Wamp
McKeon	Rogers (MI)	Watson
McNulty	Rohrabacher	Watt
Meehan	Ross	Waxman
Meek (FL)	Rothman	Weiner
Meeks (NY)	Roybal-Allard	Weldon (FL)
Menendez	Royce	Weldon (PA)
Mica	Ruppersberger	Weller
Michaud	Rush	Wicker
Millender-McDonald	Ryan (WI)	Wilson (NM)
	Ryun (KS)	Wilson (SC)
Miller (FL)	Sabo	Wolf
Miller (MI)	Sánchez, Linda T.	Woolsey
Miller (NC)		Wu
Miller, Gary	Sanchez, Loretta	Wynn
Miller, George	Sanders	Young (AK)
Mollohan	Sandlin	Young (FL)
Moore	Saxton	

NAYS—12

Hinchey	Nadler	Stark
Lofgren	Paul	Terry
Manzullo	Peterson (MN)	Waters
Markey	Ryan (OH)	Wexler

NOT VOTING—36

Ackerman	Engel	Langevin
Bachus	Gephardt	McInnis
Ballenger	Goss	Owens
Beauprez	Greenwood	Rogers (KY)
Blackburn	Hastings (FL)	Ros-Lehtinen
Boehlert	Hoeffel	Schrock
Bonner	Houghton	Serrano
Cannon	Hunter	Slaughter
Clay	Issa	Tauzin
Conyers	Johnson, E. B.	Towns
Crowley	Kennedy (RI)	Velázquez
Diaz-Balart, M.	Kleczka	Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1246

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ISSA. Mr. Speaker, today, I missed two recorded votes. If I had been present for rollcall vote No. 445, I would have votes "yea." If I had been present for rollcall vote No. 447, I would have voted "yea."

LAWSUIT ABUSE REDUCTION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 766, I call up the bill (H.R. 4571) to amend Rule 11 of the Federal Rules of Civil Procedure to improve attorney accountability, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 766, the bill is considered read for amendment.

The text of H.R. 4571 is as follows:

H.R. 4571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Lawsuit Abuse Reduction Act of 2004''.

SEC. 2. ATTORNEY ACCOUNTABILITY.

Rule 11 of the Federal Rules of Civil Procedure is amended—

(1) in subdivision (c)—

(A) by amending the first sentence to read as follows: ''If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the attorney, law firm, or parties that have violated this subdivision or are responsible for the violation, an appropriate sanction, which may include an order to the other party or parties to pay for the reasonable expenses incurred as a direct result of the filing of the pleading, motion, or other paper, that is the subject of the violation, including a reasonable attorney's fee.'';

(B) in paragraph (1)(A)—

(i) by striking ''Rule 5'' and all that follows through ''corrected.'' and inserting ''Rule 5.''; and

(ii) by striking ''the court may award'' and inserting ''the court shall award''; and

(C) in paragraph (2), by striking ''shall be limited to what is sufficient'' and all that follows through the end of the paragraph (including subparagraphs (A) and (B)) and inserting ''shall be sufficient to deter repetition of such conduct or comparable conduct by others similarly situated, and to compensate the parties that were injured by such conduct. The sanction may consist of an order to pay to the party or parties the amount of the reasonable expenses incurred as a direct result of the filing of the pleading, motion, or other paper that is the subject of the violation, including a reasonable attorney's fee.''; and

(2) by striking subdivision (d).

SEC. 3. APPLICABILITY OF RULE 11 TO STATE CASES AFFECTING INTERSTATE COMMERCE.

In any civil action in State court, the court, upon motion, shall determine within 30 days after the filing of such motion whether the action affects interstate commerce. Such court shall make such determination based on an assessment of the costs to the interstate economy, including the loss of jobs, were the relief requested granted. If the court determines such action affects interstate commerce, the provisions of Rule 11 of the Federal Rules of Civil Procedure shall apply to such action.

SEC. 4. PREVENTION OF FORUM-SHOPPING.

(a) IN GENERAL.—Subject to subsection (b), a personal injury claim filed in State or Federal court may be filed only in the State and, within that State, in the county (or Federal district) in which—

(1) the person bringing the claim, including an estate in the case of a decedent and a parent or guardian in the case of a minor or incompetent—

(A) resides at the time of filing; or

(B) resided at the time of the alleged injury; or

(2) the alleged injury or circumstances giving rise to the personal injury claim allegedly occurred; or

(3) the defendant's principal place of business is located.

(b) DETERMINATION OF MOST APPROPRIATE FORUM.—If a person alleges that the injury or circumstances giving rise to the personal injury claim occurred in more than one county (or Federal district), the trial court shall determine which State and county (or Federal district) is the most appropriate forum for the claim. If the court determines that another forum would be the most appropriate forum for a claim, the court shall dismiss the claim. Any otherwise applicable statute of limitations shall be tolled beginning on the date the claim was filed and ending on the date the claim is dismissed under this subsection.

(c) DEFINITIONS.—In this section:

(1) The term ''personal injury claim''—

(A) means a civil action brought under State law by any person to recover for a person's personal injury, illness, disease, death, mental or emotional injury, risk of disease, or other injury, or the costs of medical monitoring or surveillance (to the extent such claims are recognized under State law), including any derivative action brought on behalf of any person on whose injury or risk of injury the action is based by any representative party, including a spouse, parent, child, or other relative of such person, a guardian, or an estate; and

(B) does not include a claim brought as a class action.

(2) The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, but not any governmental entity.

(3) The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and any other territory or possession of the United States.

(d) APPLICABILITY.—This section applies to any personal injury claim filed in Federal or State court on or after the date of the enactment of this Act.

SEC. 5. RULE OF CONSTRUCTION.

Nothing in section 3 or in the amendments made by section 2 shall be construed to bar or impede the assertion or development of new claims or remedies under Federal, State, or local civil rights law.

The SPEAKER pro tempore. The amendment printed in the bill is adopted.

The text of the amendment in the nature of a substitute is as follows:

H.R. 4571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Lawsuit Abuse Reduction Act of 2004''.

SEC. 2. ATTORNEY ACCOUNTABILITY.

Rule 11 of the Federal Rules of Civil Procedure is amended—

(1) in subdivision (c)—

(A) by amending the first sentence to read as follows: ''If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the attorney, law firm, or parties that have violated this subdivision or are responsible for the violation, an appropriate sanction, which may include an order to the other party or parties to pay for the reasonable expenses incurred as a direct result of the filing of the pleading, motion, or other paper, that is the subject of the violation, including a reasonable attorney's fee.'';

(B) in paragraph (1)(A)—

(i) by striking ''Rule 5'' and all that follows through ''corrected.'' and inserting ''Rule 5.''; and

(ii) by striking ''the court may award'' and inserting ''the court shall award''; and

(C) in paragraph (2), by striking ''shall be limited to what is sufficient'' and all that follows through the end of the paragraph (including subparagraphs (A) and (B)) and inserting ''shall be sufficient to deter repetition of such conduct or comparable conduct by others similarly situated, and to compensate the parties that were injured by such conduct. The sanction may consist of an order to pay to the party or parties the amount of the reasonable expenses incurred as a direct result of the filing of the pleading, motion, or other paper that is the subject of the violation, including a reasonable attorney's fee.''; and

(2) by striking subdivision (d).

SEC. 3. APPLICABILITY OF RULE 11 TO STATE CASES AFFECTING INTERSTATE COMMERCE.

In any civil action in State court, the court, upon motion, shall determine within 30 days after the filing of such motion whether the action affects interstate commerce. Such court shall make such determination based on an assessment of the costs to the interstate economy, including the loss of jobs, were the relief requested granted. If the court determines such action affects interstate commerce, the provisions of Rule 11 of the Federal Rules of Civil Procedure shall apply to such action.

SEC. 4. PREVENTION OF FORUM-SHOPPING.

(a) IN GENERAL.—Subject to subsection (b), a personal injury claim filed in State or Federal court may be filed only in the State and, within that State, in the county (or Federal district) in which—

(1) the person bringing the claim, including an estate in the case of a decedent and a parent or guardian in the case of a minor or incompetent—

(A) resides at the time of filing; or

(B) resided at the time of the alleged injury; or

(2) the alleged injury or circumstances giving rise to the personal injury claim allegedly occurred; or

(3) the defendant's principal place of business is located.

(b) DETERMINATION OF MOST APPROPRIATE FORUM.—If a person alleges that the injury or circumstances giving rise to the personal injury claim occurred in more than one county (or Federal district), the trial court shall determine which State and county (or Federal district) is the most appropriate forum for the claim. If the court determines that another forum would be the most appropriate forum for a claim, the court shall dismiss the claim. Any otherwise applicable statute of limitations shall be tolled beginning on the date the claim was filed and ending on the date the claim is dismissed under this subsection.

(c) DEFINITIONS.—In this section:

(1) The term ''personal injury claim''—

(A) means a civil action brought under State law by any person to recover for a person's personal injury, illness, disease, death, mental or emotional injury, risk of disease, or other injury, or the costs of medical monitoring or surveillance (to the extent such claims are recognized under State law), including any derivative action brought on behalf of any person on whose injury or risk of injury the action is based by any representative party, including a spouse, parent, child, or other relative of such person, a guardian, or an estate; and

(B) does not include a claim brought as a class action.

(2) The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, but not any governmental entity.

(3) The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and any other territory or possession of the United States.

(d) APPLICABILITY.—This section applies to any personal injury claim filed in Federal or State court on or after the date of the enactment of this Act.

SEC. 5. RULE OF CONSTRUCTION.

Nothing in section 3 or in the amendments made by section 2 shall be construed to bar or impede the assertion or development of new claims or remedies under Federal, State, or local civil rights law.

SEC. 6. THREE-STRIKES RULE FOR SUSPENDING ATTORNEYS WHO COMMIT MULTIPLE RULE 11 VIOLATIONS.

(a) MANDATORY SUSPENSION.—Whenever a Federal district court determines that an attorney has violated Rule 11 of the Federal Rules of Civil Procedure, the court shall determine the number of times that the attorney has violated that rule in that Federal district court during that attorney's career. If the court determines that the number is 3 or more, the Federal district court—

(1) shall suspend that attorney from the practice of law in that Federal district court for 1 year; and

(2) may suspend that attorney from the practice of law in that Federal district court for any additional period that the court considers appropriate.

(b) APPEAL; STAY.—An attorney has the right to appeal a suspension under subsection (a). While such an appeal is pending, the suspension shall be stayed.

(c) REINSTATEMENT.—To be reinstated to the practice of law in a Federal district court after completion of a suspension under subsection (a), the attorney must first petition the court for reinstatement under such procedures and conditions as the court may prescribe.

SEC. 7. ENHANCED SANCTIONS FOR DOCUMENT DESTRUCTION.

(a) IN GENERAL.—Whoever willfully and intentionally influences, obstructs, or impedes, or attempts to influence, obstruct, or impede, a pending court proceeding through the willful and intentional destruction of documents sought in, and highly relevant to, that proceeding shall be punished with mandatory civil sanctions of a degree commensurate with the civil sanctions available under Rule 37 of the Federal Rules of Civil Procedure, in addition to any other civil sanctions that otherwise apply.

(b) APPLICABILITY.—This section applies to any court proceeding in any Federal or State court.

The SPEAKER pro tempore. After one hour of debate on the bill, as

amended, it shall be in order to consider the further amendment printed in House Report 108–684, if offered by the gentleman from Texas (Mr. TURNER), or his designee, which shall be considered read, and shall be debatable for 40 minutes, equally divided and controlled by the proponent and an opponent.

□ 1245

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, recently President Bush said, ''We must protect small business owners and workers from the explosion of frivolous lawsuits that threaten jobs across America.'' Even Senator KERRY claims to support national legislation in which ''lawyers who file frivolous cases would face tough, mandatory sanctions, including a 'three strikes and you're out' provision that forbids lawyers who file three frivolous cases from bringing another suit for the next 10 years.'' Well, help is on the way.

H.R. 4571, the Lawsuit Abuse Reduction Act, would restore mandatory sanctions and monetary penalties under Federal rule 11 of the Federal Rules of Civil Procedure for filing frivolous lawsuits and abusing the litigation process. It would also extend these same protections to cover State cases that a State judge determines to have interstate effects, and it would prevent forum shopping by requiring personal injury cases to be brought only where the plaintiff lives or was allegedly injured, or where the defendant's principal place of business is located.

H.R. 4571 will also apply a ''three strikes and you're out'' rule to attorneys who commit multiple rule 11 violations in Federal district court and impose mandatory civil sanctions for willful and intentional document destruction intended to obstruct the pending court proceeding. The bill would apply to lawsuits brought by individuals as well as businesses, and it expressly precludes the application of the bill to civil rights cases if applying the bill to such cases would bar or impede the assertion or development of new claims or remedies under Federal, State, or local civil rights law.

Today, frivolous lawsuits are legalized extortion. Without the threat of certain punishment for filing frivolous lawsuits, innocent people and small businesses will continue to face the harsh economic reality that simply paying off frivolous claims through monetary settlements is always cheaper than litigating the case until no fault is found.

No part of American society rests easy in a legal culture of fear. Churches are discouraging counseling by ministers. Children have learned to threaten teachers with lawsuits. Youth sports are shutting down in the face of lawsuits for injury or even hurt feelings. Monkey bars and other once-common equipment are now endangered species at playgrounds. As a result, children stay at home and get fat, and their parents sue the restaurants that serve them. The Girl Scouts in metro Detroit alone have to sell 36,000 boxes of cookies each year just to pay for liability insurance, 36,000 boxes of cookies.

Good Samaritans are told to hit the road. When one man routinely cleared a trail after snowstorms, the county had to ask him to stop. The supervisor of district operations wrote, ''If a person falls, you are more liable than if you had never plowed at all. Crazy world. Unfortunately, the times we are in allow for a much more litigious environment than common sense would dictate.''

Because existing rules against frivolous lawsuits are ineffective, the right to sue has not only been exploited by lawyers; it has been turned into one of the most destructive business models in the American economy. Today, personal injury lawyers can gamble on taking cases on a contingency-fee basis because they only need to win one in 10 to score the big judgment that would make up for the losses in other cases. We all live with the consequences, including higher taxes and insurance rates; chaos in our schools; doctors going out of business, limiting Americans' access to health care.

Small businesses and workers may suffer the most. The Nation's oldest ladder manufacturer, the family-owned John S. Tilley Ladders Company near Albany, New York, recently filed for bankruptcy protection and sold off most of its assets due to litigation costs. Founded in 1855, the Tilley firm could not handle the cost of liability insurance, which had risen from 6 percent of sales a decade ago to 29 percent, even though the company had never lost an actual court judgment.

Sadly, the Federal rule designed to deter frivolous lawsuits was gutted over 10 years ago; and today, we live with the results. Shockingly, rule 11 of the Federal Rules of Civil Procedure does not require sanctions or even allow monetary penalties against parties who bring frivolous lawsuits. Without certain punishment for those who bring frivolous lawsuits, and the threat of monetary penalties to compensate the victims of frivolous lawsuits, there is little incentive for lawsuit victims to spend time and money seeking sanctions for lawsuit abuse.

Rule 11 also does not allow sanctions for the abuses of the discovery process. Rule 11 as currently written even allows lawyers to avoid sanctions entirely from making frivolous claims by withdrawing them within 3 weeks. Such a rule actually encourages frivolous lawsuits because personal injury attorneys can file harassing pleadings, secure in the knowledge that they have nothing to lose. If someone objects, they can simply retreat without penalty. H.R. 4571 closes all of these loopholes.

Forum shopping further encourages frivolous litigation. Lax rules regarding where a lawsuit can be brought have turned certain parts of the country into lawsuit factories, the only factories that lose jobs rather than creating them. One of the Nation's wealthiest personal injury attorneys described what he calls ''magic jurisdictions'' as follows: ''What I call the 'magic jurisdiction' is where the judiciary is elected with verdict money. The trial lawyers have established relationships with the judges that are elected. It's almost impossible to get a fair trial if you're a defendant in some of these places. Any lawyer fresh out of law school can walk in there and win the case, so it doesn't matter what the evidence or law is.'' H.R. 4571 would prevent the unfair practice of forum shopping that currently allows personal injury lawyers to sue wherever the most favorable court is.

Congress cannot sit back and allow the personal injury lawyers to bankrupt the very concept of personal responsibility that has made America great. I urge my colleagues to support this bipartisan legislation that will protect both America's values and its vital small businesses.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume, and I rise to speak against the bill

Mr. Speaker, I do not support the legislation because it will have a significant adverse effect on the ability of unpopular plaintiffs to seek recourse in our courts, and it will operate to benefit foreign corporate defendants at the expense of domestic counterparts and will skew the playing field against injured victims.

Now, a lot of organizations oppose the bill, and I would like to read from a letter from the Judicial Conference of the United States, the Chief Justice of the United States presiding, in a letter to the committee chairman.

It says that ''section 2 of the bill would reinstitute a rule eliminated in 1993 upon the recommendation of the Judicial Conference, approved by the Supreme Court, and after review by Congress, because of the serious problems it engendered during a 10-year period of operation. Section 2 also would amend rule 11 of the Federal Rules of Civil Procedure in a manner consistent with the longstanding Judicial Conference policy opposing direct amendment of the Federal rules by legislation.''

The letter goes on to say that the bill ''would directly amend civil rule 11 to remove a court's discretion to impose sanctions on a frivolous filing and eliminate the rule's 'safe-harbor' provisions. The bill undoes amendments to rule 11 that took effect on December 1, 1993, and would bring back the provisions that were first introduced in 1983

and removed from the rule in 1993, after a decade of signally bad experiences with the operation and effects of the 1983 rule.''

The Judicial Conference of the United States goes on to state: ''Like H.R. 4571, the 1983 version of rule 11 required sanctions for every violation of the rule. It spawned thousands of court decisions and generated widespread criticism. The rule was abused by resourceful lawyers, and an entire 'cottage industry' developed that churned tremendously wasteful satellite litigation that had everything to do with strategic gamesmanship and little to do with underlying claims. Rule 11 motions came to be met with countermotions that sought rule 11 sanctions for making the original rule 11 motion.

''Some of the serious problems caused by the 1983 amendments to rule 11 included:

''Creating a significant incentive to file unmeritorious rule 11 motions by providing a possibility of monetary penalty.''

It goes on to cite other problems that occurred that were cured in 1993. The letter goes on: ''The 1993 amendments to rule 11 were designed to strike a fair and equitable balance between competing interests, remedy the major problems with the rule, and allow courts to focus on the merits of the underlying cases rather than on rule 11 motions.''

It goes on to say that the ''experience with the amended rule since 1993 has demonstrated a marked decline in rule 11 satellite litigation without any noticeable increase in the number of frivolous filings. In June 1995, the Federal Judicial Center conducted a survey of 1,130 lawyers and 148 judges on the effects of the 1993 rule 11 amendments . . . The Center found general satisfaction with the amended rule. It also found that more than 75 percent of the judges and lawyers would oppose a provision that would require a court to impose a sanction when the rule is violated. A majority of the judges and lawyers, both plaintiffs' and defendants' lawyers, believed that groundless litigation was handled effectively by judges.

''Undoing the 1993 rule 11 amendments, even though no serious problem has been brought to the Judicial Conference rules committee's attention, would frustrate the purpose and intent of the Rules Enabling Act.''

It goes on to criticize the provisions in section 3, the mandatory application to State laws, and section 4, the provision on forum shopping.

Mr. Speaker, in addition to the Judicial Conference, other organizations oppose the legislation. The NAACP, the Public Citizen, the Alliance for Justice, People for the American Way, the American Association of People with Disabilities, the Lawyers' Committee for Civil Rights Under Law, the American Bar Association, the National Conference of State Legislatures, National Partnership for Women, National Women's Law Center, the Center for Justice and Democracy, Consumers Union, National Association of Consumer Advocates, USAction, U.S. PIRG, and the NAACP Legal Defense Fund all oppose the legislation.

Mr. Speaker, one of the additional problems with the bill is the chilling effect it may have on bringing important, legitimate, unpopular actions. This is due to the fact that much of the impetus of the 1993 changes stemmed from abuses by defendants in civil rights cases, namely, that civil rights defendants were choosing to harass civil rights plaintiffs by filing a series of rule 11 motions intended to slow down and impede meritorious cases.

Although the bill states that the proposed rule 11 changes shall not be construed to ''bar or impede the assertion of new claims or remedies under Federal, State or local civil rights law,'' the language does not clearly and simply exempt civil rights and discrimination cases under current law, as should be the case. Determining what a new claim or remedy might be would just add to the litigation.

Certainly, it does not cover the fact that this bill and rule 11 do not offer an attorney the ability to appeal a rule 11 sanction. History has demonstrated that civil rights lawsuits are often extremely unpopular, particularly in certain parts of the country where some judges almost automatically consider civil rights cases as frivolous. In such courts, plaintiffs' attorneys could be unreasonably subject to sanctions, even suspensions, without appeal contrary to the purpose of rule 11.

□ 1300

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for yielding me this time.

Mr. Speaker, frivolous lawsuits bankrupt individuals, ruin reputations, drive up insurance premiums, increase health care costs, and put a drag on the economy. Frivolous lawsuits are brought, for example, where there is no evidence that shows negligence on the part of the defendant. These nuisance lawsuits make a mockery of our legal system.

Of course, many Americans have legitimate legal grievances, from someone wrongly disfigured during an operation to a company responsible for contaminating a community's water supply. No one who deserves justice should be denied justice. However, gaming of a system by a few lawyers drives up the cost of doing business and drives down the integrity of the judicial system.

Let me give some examples. The Chief Executive Officer of San Antonio's Methodist Children's Hospital was sued after he stepped into a patient's hospital room and asked how he was doing. Of course, a jury cleared him of any wrongdoing.

A Pennsylvania man sued the Frito-Lay company, claiming that Doritos chips were ''inherently dangerous'' after one stuck in his throat. After 8 years of costly litigation, the Pennsylvania Supreme Court threw out the case, writing that there is ''a common sense notion that it is necessary to properly chew hard foodstuffs prior to swallowing.''

In a New Jersey Little League game, a player lost sight of a fly ball because of the sun. He was injured when the ball struck him in the eye. The coach was forced to hire a lawyer after the boy's parents sued. The coach settled the case for $25,000.

Today, almost any party can bring any suit in almost any jurisdiction. That is because plaintiffs and their attorneys simply have nothing to lose. All they want is for the defendant to settle. This is legalized extortion. It is lawsuit lottery.

Some lawyers file lawsuits for reasons that can only be described as absurd. They sue a theme park because its haunted houses are too scary. They sue the Weather Channel for an inaccurate forecast. And they sue McDonald's, claiming a hot pickle dropped from a hamburger caused a burn and mental jury.

Defendants, on the other hand, can unfairly lose their careers, their businesses and their reputations. In short, they can lose everything. This is not justice, and there is a remedy. The Lawsuit Abuse Reduction Act.

Mr. Speaker, this applies to both plaintiffs who file frivolous lawsuits merely to extort financial settlements and to defendants who unnecessarily prolong the legal process. If the judge determines a claim is frivolous, then they can order that person to pay the attorney's fees of the party who is the victim of their frivolous claim. This will make a lawyer think twice before he or she brings a lawsuit.

In addition, this legislation prevents forum shopping. It requires that personal injury claims be filed only where the plaintiff resides, where the injury occurred, or where the defendant's principal place of business is located. This provision addresses the growing problem of attorneys who shop around the country for judges who routinely award excessive amounts.

One of the Nation's wealthiest trial lawyers, Dickie Scruggs, has told us exactly how this abuse occurs, and the chairman of the Committee on the Judiciary used this example a while ago, but, quite frankly, it is just too good not to repeat.

Here is what one of the king of torts says about forum shopping: ''What I call 'the magic jurisdiction.' It's where the judiciary is elected with verdict money, the trial lawyers have established relationships with the judges that are elected; they've got large populations of voters who are in on the

deal, they're getting their piece in many cases. It's almost impossible to get a fair trial if you're a defendant in some of these places. Any lawyer fresh out of law school can walk in there and win the case, so it doesn't matter what the evidence or law is.''

Mr. Speaker, I do not know how anyone can justify the continuation of this kind of abuse. One of these magic jurisdictions where trial lawyers flock is in my home State of Texas in Jefferson County. The Austin American Statesman noted that trial lawyers claim this is where ''juries pass down sizable judgments.'' Soaring medical liability insurance rates have followed, which has caused doctors to flee the area.

Mr. Speaker, forum shopping is a part of lawsuit abuses and we must pass legislation to stop it from occurring. The following organizations support H.R. 4571: American Tort Reform Association, National Association of Home Builders, National Association of Manufacturers, National Restaurant Association, National Federation of Independent Business, American Insurance Association, and the U.S. Chamber of Commerce.

Also, I might add, both Republican and Democratic presidential and vice presidential candidates are on record as wanting to stop frivolous lawsuits. So the Lawsuit Abuse Reduction Act is sensible reform that will help restore confidence to America's justice system.

Mr. Speaker, I want to add one point and address a concern that was raised by my friend from Virginia and that had to do with a letter he raised from the Judicial Conference. Well, the Judicial Conference does not exactly enhance their credibility when they take a position contrary to the judges that they purport to represent. And, in fact, in surveys taken by the Judicial Conference before the rule was changed in 1993, it found that 80 percent of the judges favored the rule that we seek to go back to. After the rule was changed and weakened, which we opposed, they took another survey and found a majority of judges, in fact almost a majority of trial lawyers, liked the original rule that we seek to go back to in this legislation.

So, Mr. Speaker, I urge my colleagues to support this bill.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume to comment that the letter from the Judicial Conference of the United States outlining the survey results, showed a majority of judges, lawyers, both plaintiffs and defense lawyers, believed that groundless litigation was handled effectively by the judges and preferred the 1993 amendment.

Mr. Speaker, I submit herewith the letter from the Judicial Conference for the RECORD.

JUDICIAL CONFERENCE OF
THE UNITED STATES,
Washington, DC, July 9, 2004.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, 2138 Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Judicial Conference, I write to urge you to reconsider your position on the ''Lawsuit Abuse Reduction Act of 2004'' (H.R. 4571). [Section 2 of the bill would reinstitute a rule eliminated in 1993 upon the recommendation of the Judicial Conference, approval by the Supreme Court, and after review by Congress, because of the serious problems it engendered during a ten-year period of operation. Section 2 also would amend Rule 11 of the Federal Rules of Civil Procedure in a manner inconsistent with the longstanding Judicial Conference [policy opposing direct amendment of the federal rules by legislation.] Section 3 of H.R. 4571 would apply the revised federal Rule 11 to certain state court actions, while section 4 would amend the venue standards governing the filing of tort actions in both the federal and state courts: Sections 3 and 4 implicate federal-state comity interests and raise important policy and practical concerns.

SECTION 2

[Section 2 would directly amend Civil Rule 11 to remove a court's discretion to impose sanctions on a frivolous filing and eliminate the rule's ''safe-harbor'' provisions. The bill undoes amendments to Rule 11 that took effect on December 1, 1993, and would bring back the provisions that were first introduced in 1983 and removed from the rule in 1993, after a decade of signally bad experiences with the operation and effects of the 1983 rule.

Like H.R. 4571, the 1983 version of Rule 11 required sanctions for every violation of the rule. It spawned thousands of court decisions and generated widespread criticism. The rule was abused by resourceful lawyers, and an entire ''cottage industry'' developed that churned tremendously wasteful satellite litigation that had everything to do with strategic gamesmanship and little to do with underlying claims. Rule 11 motions came to be met with counter motions that sought Rule 11 sanctions for making the original Rule 11 motion.

[Some of the other serious problems caused by the 1983 amendments to Rule 11 included:

(1) Creating a significant incentive to file unmeritorious Rule 11 motions by providing a possibility of monetary penalty;

(2) engendering potential conflict of interest between clients and their lawyers, who advised withdrawal of particular claims despite the clients' preference;

(3) exacerbating tensions between lawyers; and

(4) providing little incentive, and perhaps a distinctive disincentive, to abandon or withdraw a pleading or claim—and thereby admit error—that lacked merit after determining that it no longer was supportable in law or fact.

The 1993 amendments to Rule 11 were designed to strike a fair and equitable balance between competing interests, remedy the major problems with the rule, and allow courts to focus on the merits of the underlying cases rather than on Rule 11 motions. The rule establishes a safe harbor, providing a party 21 days within which to withdraw a particular claim or defense before sanctions can be imposed. If the party fails to withdraw an allegedly frivolous claim or defense within the 21 days, a court may impose sanctions, including assessing reasonable attorney fees.] The 1983 Rule 11 authorized a court to sanction discovery-related abuse under Rule 11, Rule 26(g), or Rule 37, which created confusion. Under the 1993 amendments to Rule 11, sanctioning of discovery-related abuse was limited to Rules 26 and 37, which provide for sanctions that include awards for reasonable attorney fees.

The 1993 amendments to Rule 11 culminated a long, critical examination of the rule begun four years earlier. The Advisory Committee on Civil Rules (Advisory Committee) reviewed a significant number of empirical examinations of the 1983 Rule 11, including three separate studies conducted by the Federal Judicial Center in 1985, 1988, and 1991, a Third Circuit Task Force report on Rule 11 in 1989, and a New York State Bar Committee report in 1987. The Advisory Committee took note of several book-length analyses of Rule 11 case law.

The 1991 Federal Judicial Center survey noted that most federal judges believed that the 1983 version of Rule 11 had positive effects. But the study also noted that most judges found several other methods more effective than Rule 11 in handling such litigation and, most significantly, that about one-half of the judges reported that Rule 11 exacerbates behavior between counsel. After reviewing the literature and empirical studies of problems caused by the 1983 amendments to Rule 11, the Advisory Committee issued in 1990 a preliminary call for general comment on the operation and effect of the rule. The response was substantial, calling for a change in the rule.

The Advisory Committee concluded that the cost-shifting in Rule 11 created an incentive for too many unnecessary Rule 11 motions. Amendments to Rule 11 were drafted. The Supreme Court promulgated and transmitted the amendments to Congress in May 1993 after extensive scrutiny and debate by the bench, bar, and public in accordance with the Rules Enabling Act process (28 U.S.C. §§ 2071–2077).

[Experience with the amended rule since 1993 has demonstrated a marked decline in Rule 11 satellite litigation without any noticeable increase in the number of frivolous filings. In June 1995, the Federal Judicial Center conducted a survey of 1,130 lawyers and 148 judges on the effects of the 1993 Rule 11 amendments. About 580 attorneys and 120 judges responded to the survey. The Center found general satisfaction with the amended rule. It also found that more than 75 percent of the judges and lawyers would oppose a provision that would require a court to impose a sanction when the rule is violated. A majority of the judges and lawyers, both plaintiffs' and defendants' lawyers, believed that groundless litigation was handled effectively by judges.

Undoing the 1993 Rule 11 amendments, even though no serious problem has been brought to the Judicial Conference rules committees' attention, would frustrate the purpose and intent of the Rules Enabling Act. Section 2 of H.R. 4571 would effectively reinstate the 1983 version of Rule 11 that proved so contentious and wasted so much time and energy of the bar and bench. Section 2, indeed, in some ways seems to go beyond the provisions that created serious problems with the 1983 rule. It may cause even greater mischief. Rule 11 in its present form has proven effective and should not be revised.]

SECTIONS 3 AND 4

[Section 3 would extend the new requirements of a mandatory Rule 11 to all state court litigation that the state court deems, on motion, to affect interstate commerce.] Two features of this provision stand out. First, it would directly regulate the practice and procedure of state courts, mandating a federal standard for the imposition of sanctions for the filing of frivolous or

ungrounded complaints and other papers in state court. At present, states have been free to adopt their own rules of practice, including a version of Rule 11, if a state so chooses. Second, section 3 does not specify the actions to which it would apply. Rather, it imposes on state judges a broad generalized test to determine whether or not federal Rule 11 would apply in a given case. If enacted, this section could affect the cost and duration of a very large number of civil actions in state courts.

[Section 4 seeks to prevent forum shopping by specifying the places where a plaintiff may bring a ''personal injury'' claim by imposing a federal standard for determining the venue of state law personal injury claims, in both state and federal court. Such a federal standard would displace existing state venue rules or statutes.] It would also significantly alter the statutes in title 28, United States Code, that now govern venue (section 1391) and transfer of venue (section 1404) in the federal courts.

The Judicial Conference opposes the enactment of H.R. 4571 for the reasons stated above as to section 2. Sections 3 and 4 would make important changes in the administration of civil justice in both federal and state courts. The Judicial Conference has not had the opportunity to formally assess the advisability or impact of these sections, but notes that they may substantially affect federal-state comity interests and raise important policy and practical concerns.

The Judicial Conference greatly appreciates your consideration of its views: If you or your staff have any questions, please contact Michael W. Blommer, Assistant Director, Office of Legislative Affairs, Administrative Office of the U.S. Courts, at (202) 502–1700.

Sincerely,

LEONIDAS RALPH MECHAM,
Secretary.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. BERMAN).

(Mr. BERMAN asked and was given permission to revise and extend his remarks.)

Mr. BERMAN. Mr. Speaker, I wonder if the majority ever steps back for a second and looks at the situation that they are in. They run around asking the Committee on the Judiciary in the House to pass legislation stripping Federal courts of jurisdiction, including the U.S. Supreme Court of jurisdiction, to decide fundamental constitutional questions presented under the U.S. Constitution, and at the same time they run around asking the Committee on the Judiciary of the House and the House of Representatives to pass bills writing the venue laws for personal injury actions brought in State court.

This is Federal intrusion in areas traditionally reserved for the States and an effort to reverse everything that Marbury v. Madison and all of its subsequent cases have said with respect to the Federal Judiciary's role in dealing with questions arising under the Constitution.

My friend, the very able chairman of the Committee on the Judiciary, says on the question of frivolous lawsuits, help is on the way. But the truth is, help is not on the way for those who are looking for it. The germ of a good idea, mandatory sanctions for filing of frivolous pleadings or frivolous motions, improved by an amendment by the gentleman from Florida (Mr. KELLER), to say that where an attorney is responsible for three such frivolous filings he is subject to suspension, that to be reviewed by an appellate court so that there are real teeth and deterrence to the filing of frivolous lawsuits, is combined with an overreaching, egregious effort to exchange the venue laws of 50 State legislatures and the courts of those States with respect to personal injury actions, any of which could be corrected by those State legislatures on their own in matters having no serious Federal interest.

Once again, the Republican majority, as it has done consistently for the past 10 years in the area of tort reform, overreaches. It takes a good idea, adds so many outrageous and overreaching provisions to that good idea that the other House ignores it.

Let us go back and look at a little history. In 1994, the Republicans came down with their Contract For America, and one of them was tort reform. I will give a classic example. In the committee they eliminate joint and several liability. There are arguments for it and there are arguments against it. Either the plaintiff who is not able to recover and made whole is hurt, or some defendant is potentially liable for the entire judgment, even though he is only partially responsible.

In the Committee on Rules two amendments are offered; one to take care of the minor tort feasers, the people who are involved in a relatively small amount of the negligent conduct that produced the injury; and the other one to wipe out that rule. The Republican majority, fearful that the compromise proposal might pass the House, does not allow the rule for that amendment to go through and, instead, allows the one to simply reinstate the existing law.

In that bill, which of course never passed the Senate, in the medical malpractice legislation, where they resisted any effort to make the caps on pain and suffering relevant to today's costs and today's times and the current situation, whether it is on class action lawsuits, where they sought to suck up all State actions without any balance, they have consistently overreached. And the result, as they are doing with this bill, of overreaching is that we lose a chance to make some improvement in the present system to deal effectively, in this case with frivolous lawsuits, because they want everything or they want the issue, and end up with nothing.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time.

Over the past decade, our Nation has witnessed an explosion of civil lawsuits. Large jury awards and settlements have produced an ever-growing number of actions in Federal and State courts, costing the American people more than $200 billion each year and really drastically reshaping our civil justice system.

Tort liability was developed to hold responsible those parties who injure or harm others through actions determined to be negligent or reckless or careless. However, civil actions are increasingly being used to harass and threaten and manipulate innocent parties, undermining the credibility and traditional notions of justice in this country.

In 1993, Rule 11 of the Federal Rules of Civil Procedure, the Federal safeguard against Federal lawsuits, was weakened, thereby making frivolous claims easier to file. Those changes to Rule 11 provided judges with more leeway to avoid sanctioning attorneys who filed meritless claims.

For example, the rule changes allowed trial attorneys a 21-day ''safe-harbor period'' to correct or withdraw meritless claims without fear of penalty, often at the expense of innocent defendants.

While a number of initiatives have been introduced in Congress to reform specific aspects of the tort system, such as medical malpractice reform, small business reform, and product liability reform, or the 18-year Statute of Repose, the legislation that is being offered on the floor today seeks to reduce frivolous lawsuits on a broader scale.

Restoring Rule 11, with its intended authority and expanding its applicability, the Lawsuit Abuse Reduction Act will put teeth back into the safeguard against frivolous claims. This legislation will remove the safe-harbor provision I mentioned before, it would authorize judges to impose sanctions, including monetary, against attorneys and parties who file meritless claims, it would extend sanctions to discovery, and it would extend Rule 11 claims that affect interstate commerce.

Mr. Speaker, I would strongly urge my colleagues to support this legislation.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me first agree with my colleagues on both sides of the aisle that I do not think anybody really likes frivolous litigation, and this bill provides an opportunity for people to get up and say that. I think if we were to ask either the Republican or the Democratic nominees for President and Vice President that are out there running, all of them will say, no, I do not like frivolous litigation.

The problem here is that my colleagues just do not want to be confused by the facts, because this bill is going to do more to encourage frivolous litigation, potentially, than it is going to do to discourage frivolous litigation. The Judicial Conference of the United States has made that clear in the letter that has been introduced into the

RECORD in which they say that the provisions of this bill, which go back to the rules that were in effect prior to 1983, those rules were changed because they spawned a whole cottage industry of litigation related to frivolous lawsuits.

□ 1315

So even if this were going to discourage frivolous lawsuits, which they say it would not, you are going to engender a whole new set of problems because what they say happened was Rule 11 motions came to be met with countermotions that sought Rule 11 sanctions for making the original Rule 11 motion. What sense does that make that we would set up a system to encourage people to file countermotions against each other claiming that the other side was frivolous in what they were doing in the lawsuit?

The Judicial Conference is clear that this bill would provide incentives to encourage litigants to keep a frivolous claim in court because if they ever withdrew the frivolous claim, it in effect would be a concession that it was frivolous. So somebody files a lawsuit, realizes they have a bad claim, then has no way of getting out of it because they are afraid to withdraw the claim because somebody is going to hit them with sanctions, and the fact that they withdrew the claim is an admission that it was a frivolous claim. It is going to set up situations where lawyers are put in conflicts of interest with their clients because the client wants to pursue a claim that may be frivolous, the lawyer does not want to pursue it, realizes that the claim is frivolous and cannot back out of it without getting into a conflict of interest with their client. All of that is outlined in the letter from the Judicial Conference.

This is not really about doing something that is going to discourage frivolous lawsuits, this bill is going to encourage frivolous lawsuits and encourage pursuit of frivolous lawsuits in a way that the Judicial Conference has outlined clearly.

There seems to be this mentality, I hate frivolous lawsuits and do not confuse me with the facts because that is not what I am interested in. We should vote this bill down and keep the rules in place that are there that allow judges to make reasonable decisions in their courts.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the Judicial Conference has amnesia and they did not look back into the history of what happened between 1983 and 1993 when the rules that this bill proposes were in place.

In 1991, the Judicial Conference Advisory Committee on Civil Rule did a survey and reviewed Rule 11. At that time 751 Federal judges found that an overwhelming majority of them, 95 percent, believed Rule 11 did not impede development of the law; 72 percent believed that the benefits of the rule outweighed any additional requirement of judicial time; 81 percent believed that the 1983 version of Rule 11 had a positive effect on litigation in the Federal courts; and 80 percent believed that the rule should be retained in its then-current form. That is what the judges who were on the bench at the time this rule was in effect said.

The Judicial Conference ought to spend their time looking back at their own records and their own surveys rather than sending these types of letters advising us that what we are doing here is no good.

Mr. Speaker, I yield 2½ minutes to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Speaker, I rise today in strong support of the Lawsuit Abuse Reduction Act of 2004. The overriding central purpose of this legislation is to prevent frivolous lawsuits from being filed in the first place. To achieve this, we provide for tough, mandatory sanctions, including a three strikes and you are out penalty, which I authored.

Now should Members vote for this legislation? To determine that answer, may I suggest that Members consider three questions:

First, do Members believe frivolous lawsuits waste good people's time and money?

Second, should lawyers who bring frivolous lawsuits face tough mandatory sanctions?

Third, when a court has determined that an attorney has brought at least three frivolous lawsuits under Rule 11, should there be a three strikes and you are out penalty?

If the answers to those questions are yes, Members should vote in favor of this legislation. In fact, I will take it a step further and tell Members flat out that the answers to those questions are yes, at least according to Senator JOHN EDWARDS, a Democrat from North Carolina, who was a plaintiff's personal injury attorney.

On December 15, 2003, Newsweek magazine published an article written by Senator JOHN EDWARDS where he said, ''Frivolous lawsuits waste good people's time and hurt the real victims. Lawyers who bringing frivolous cases should face tough, mandatory sanctions, with a 'three strikes' penalty.''

Mr. Speaker, I agree, and that is precisely what this legislation does. Congress should act today in a bipartisan manner to prevent and punish frivolous lawsuits. We should care about each more and sue each other less. I urge my colleagues to vote yes on the Lawsuit Abuse Reduction Act of 2004.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I rise in strong opposition both to this bill and to the process which produced it. H.R. 4571 would make fundamental changes to the Rule 11 sanctions process without our even receiving the benefit of input from either the Judicial Conference or the Supreme Court.

Mr. Speaker, it is obvious that the proponents of this legislation do not want to hear from our judges because they know that the vast majority of our judges do not agree with this bill. As a matter of fact, I think that this bill could appropriately be named big business versus the people.

Mr. Speaker, big businesses pay expensive lawyers by the hour to protect their interests. Trial lawyers handling many of these cases that are being termed frivolous are paid only if they win.

I would like to quote John Q. Quinn, a veteran trial lawyer from Houston, who sees this as a make-or-break election issue in an article that appeared in the Los Angeles Times. ''Corporate America is in charge these days. They control the White House, the Congress and the Supreme Court. But so far they do not control the right to trial by jury. That is the only place where ordinary citizens can go and have their complaints heard,'' Quinn said. I further quote him when he said ''Ordinary people cannot hire lobbyists in Washington, but in the courtroom they get an equal chance to stand up against a corporation.''

Now the Chamber of Commerce and big corporate America, spending millions of dollars in public relations campaigns, would have Members believe that the number of civil cases have risen and thus the number of frivolous lawsuits, but that is simply not the case. I would like to further quote this Los Angeles Times article which said, ''The Justice Department's Bureau of Justice Statistics and the National Center for State Courts track civil trials and verdicts in the Nation's 75 largest counties. In April, the bureau reported in the last decade the number of cases have gone down, not up.''

The number of general civil cases disposed of by trial in the Nation's largest counties declined from 22,451 in 1992 to 11,908 in 2001. That is a 47 percent decline. The plaintiffs won about half the time, and the overall median award was $37,000 in 2001, down from $65,000 in 1992.

These cases included automobile accidents, medical malpractice and product liability claims. About one-third of the cases involved contract claims which typically involve one business against each other. Mr. Speaker, we are talking about ordinary people. We are talking about people who get up every day and go to work, common folk who just earn sometimes entry-level wages. We are talking about people who could be harmed in an automobile accident or on the job working at a company that does not care about their safety, where they can lose a limb, their eyes, they could be killed. They could lose their lives.

Are we going to prevent the ability of these people to be heard and have their day in court? Big business may not want to accept liability, but it must; and we cannot live in a country where we have big business, because they

have money, come to the Congress of the United States and produce legislation that would prevent the average, little person from having their day in court and being heard by a jury.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for bringing this bill up today, and I rise in support of the legislation.

Interestingly enough, every Member who has spoken in support of the legislation today is an attorney, me included. In my private practice, I represented small businesses, businesses which employed four or five people on the average.

I recall very clearly their concerns when they came to see me and my colleagues. It was, unfortunately, the fear of lawsuits. Retail businesses today are not opening at the rate they probably should be because of fear of lawsuits. Our economic recovery has begun, but it would be moving along much more quickly but for fear of lawsuits.

We have the opportunity today to prevent many of those lawsuits, lawsuits that are frivolous. This bill will in no way effect anyone who has a legitimate lawsuit. It will only affect those who do not; those who waste money and resources, those who cause a lot of job loss. The Lawsuit Abuse Reduction Act of 2004 will provide for appropriate sanctions against frivolous lawsuits. That means it will provide for fewer frivolous lawsuits.

This bill applies to cases brought by individuals as well as by businesses both big and small, including business claims filed to harass competitors and gain market share. The bill applies to both plaintiffs and defendants if what they are filing is a frivolous action. Polls show that Americans overwhelmingly support legislation barring frivolous lawsuits.

A recent poll showed that 83 percent of likely voters believe there are too many lawsuits in America; 76 percent believe lawsuit abuse results in increased prices for goods and services; and 73 percent of Americans support requiring sanctions against attorneys who file frivolous lawsuits, and that is what this legislation does.

Frivolous lawsuits make businesses and workers suffer. This year the Nation's older ladder manufacturer, a family-owned company in New York, filed for bankruptcy protection and sold off most of its assets due to litigation costs. The company was founded in 1855, but it could not handle the cost of liability insurance which had risen from 6 percent of their sales to nearly 30 percent today, even though the company never actually lost a court judgment. The company owner said, ''We could see the handwriting on the wall, and just want to end this whole thing.''

Let us pass this legislation and make sure that our U.S. manufacturing sector stays strong.

□ 1330

It is our error if we fail to protect them today. Our manufacturing sector, which has been the envy of the world, finds itself mired in a slow recovery due to the cost of many lawsuits.

I encourage my colleagues to support this legislation. It has been costly to our business sector and especially costly to jobs.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman for his leadership on this issue and a number of Members who have come to the floor to express their opposition to this legislation.

Mr. Speaker, the prime place for the answer to the question of frivolous lawsuits has to be in our judicial system. I am not sure why Congress considers it necessary to interfere on a regular basis with the normal process of the court system. They have done that throughout the years of the leadership of the Republican agenda, particularly as relates to closing the door to the injured, to plaintiffs, with the representation that there are too many frivolous lawsuits.

They did it in product liability, so a child injured on the Nation's playground, their parents could not find their way into the courthouses and have the judges or juries make the decisions that are necessary on the facts that are presented.

In the bankruptcy setting, they attempted to alter the bankruptcy code so that those in the middle class would never be able to go in and file Chapter 11 as our large corporations have been able to do over the years. Why do we feel the necessity to think that we are the arbiter on frivolous lawsuits when we do not have the facts before us?

The legislation we have would reverse the changes to rule 11 of the Federal Rules of Civil Procedure that were made by the Judicial Conference in 1993 such that, one, sanctions against an attorney whose litigation tactics are determined to harass or cause unnecessary delay or cost or who has been determined to have made frivolous legal arguments or unwarranted factual assertions would become mandatory rather than discretionary to the court; two, discovery-related activity would be included within the scope of the rule; and, three, the rule would be extended to State cases affecting interstate commerce so that if a State judge decides that a case affects interstate commerce, he or she must apply rule 11 if violations are found.

This legislation strips State and Federal judges of their discretion in the area of applying rule 11 sanctions. Furthermore, it infringes on States' rights by forcing State courts to apply the rule if interstate commerce is affected. Why is the discretion of the judge not sufficient in discerning whether rule 11 sanctions should be assessed rather than having a must-apply rule implemented on them by eliminating from them the ability to review the facts?

Part of the legal justice system is the eye on the facts, the presence in the courtroom, the lawyers, plaintiffs, defendants, prosecutors, defense lawyers, fact finders in the jury, the judge; not an oversight body way up here in Washington that has no knowledge of what is going on in individual courthouses.

If this legislation moves forward in this body, it will be important for us to find out its effect on indigent plaintiffs or those who must hire an attorney strictly on a contingent-fee basis. Because the application of rule 11 would be mandatory, attorneys will have to enhance their legal fees to account for the additional risk that they will have to incur in filing lawsuits and the fact that they will have no opportunity to withdraw the suit due to a mistake. Mistakes do happen.

Overall, this legislation will deter indigent plaintiffs from seeking counsel to file meritorious claims given the potential of high legal fees. This goes right in the face, if you will, of contingent fees that have been so important to those that have been injured on their job, injured in catastrophic disasters, such as issues dealing with mobility. All of those questions, individuals will now be deterred because lawyers will have this enhanced, if you will, burden that could have been handled in the courthouse.

I have not seen a dearth of judges who have had the ability and the responsibility to throw out frivolous lawsuits, fear doing so. Yet we want to sit on the high and look down the mountain and interject into the courts in Texas, Louisiana, New York, Wisconsin, Georgia and States all around the Nation and legislate what judges already do—create a fair justice system.

The ''Benedict Arnold corporation'' refers to a company that in bad faith takes advantage of loopholes in our Tax Code to establish bank accounts or to ship jobs abroad for the main purpose of tax avoidance, I will support this provision in the motion to recommit.

Let me simply say, in closing, Mr. Speaker, this is a bad legislative initiative. I would ask my colleagues to oppose it. Give all the decisions back to the courthouse and let us have a fair judicial system for all.

Mr. Speaker, I rise in opposition to the base bill before the Committee of the Whole, H.R. 4571, the Lawsuit Abuse Reduction Act of 2004 and state my support for the substitute as offered by the gentleman from Texas, Mr. TURNER.

As I mentioned during the Committee on the Judiciary's oversight hearing on this legislation and reiterated in my statement for the markup, one of the main functions of that body's oversight is to analyze potentially negative impact against the benefits that a legal process or piece of legislation will have on those affected. The base bill before the House today does not represent the product of careful analysis.

In the case of H.R. 4571, the Lawsuit Abuse Reduction Act, this legislation requires an overhaul in order to make it less of a misnomer—to reduce abuse rather than encourage it.

The goal of the tort reform legislation is to allow businesses to externalize, or shift, some of the cost of the injuries they cause to others. Tort law always assigns liability to the party in the best position to prevent an injury in the most reasonable and fair manner. In looking at the disparate impact that the new tort reform laws will have on ethnic minority groups, it is unconscionable that the burden will be placed on these groups—that are in the worst position to bear the liability costs.

When Congress considers pre-empting state laws, it must strike the appropriate balance between two competing values—local control and national uniformity. Local control is extremely important because we all believe, as did the Founders two centuries ago, that state governments are closer to the people and better able to assess needs and desires. National uniformity is also an important consideration, in federalism—Congress' exclusive jurisdiction over interstate commerce has allowed our economy to grow dramatically over the past 200 years.

This legislation would reverse the changes to Rule 11 of the Federal Rules of Civil Procedure (FRCP) that were made by the Judicial Conference in 1993 such that (1) sanctions against an attorney whose litigation tactics are determined to harass or cause unnecessary delay or cost or who has been determined to have made frivolous legal arguments or unwarranted factual assertions would become mandatory rather than discretionary to the court, (2) discovery-related activity would be included within the scope of the Rule, and (3) the Rule would be extended to state cases affecting interstate commerce so that if a state judge decides that a case affects interstate commerce, he or she must apply Rule 11 if violations are found.

This legislation strips state and federal judges of their discretion in the area of applying Rule 11 sanctions. Furthermore, it infringes States' rights by forcing state courts to apply the rule if interstate commerce is affected. Why is the discretion of the judge not sufficient in discerning whether Rule 11 sanctions should be assessed?

If this legislation moves forward in this body, it will be important for us to fund out its effect on indigent plaintiffs or those who must hire an attorney strictly on a contingent-fee basis. Because the application of Rule 11 would be mandatory, attorneys will pad their legal fees to account for the additional risk that they will have to incur in filing lawsuits and the fact that they will have no opportunity to withdraw the suit due to a mistake. Overall, this legislation will deter indigent plaintiffs from seeking counsel to file meritorious claims given the extremely high legal fees.

Furthermore, H.R. 4571, as drafted, would allow corporations that perform sham and non-economic transactions in order to enjoy economic benefits in this country. Therefore, I planned to offer an amendment that would preclude these entities from so benefiting.

The text of the amendment defined the term "Benedict Arnold Corporation" and proposed to prevent such companies from benefiting from the legal remedies that H.R. 4571 purports to offer.

The "Benedict Arnold Corporation" refers to a company that, in bad faith, takes advantage loopholes in our tax code to establish bank accounts or to ship jobs abroad for the main purpose of tax avoidance. A tax-exempt group that monitors corporate influence called "Citizen Works" has compiled a list of 25 Fortune 500 Corporations that have the most offshore tax-haven subsidiaries. The percentage of increase in the number of tax havens held by these corporations since 1997 ranges between 85.7 percent and 9,650 percent.

This significant increase in the number of corporate tax havens is no coincidence when we look at the benefits that can be found in doing sham business transactions. Some of these corporations are "Benedict Arnolds" because they have given up their American citizenship; however, they still conduct a substantial amount of their business in the United States and enjoy tax deductions of domestic corporations.

Such an amendment would preclude these corporations from enjoying the benefit of mandatory attorney sanctions for a Rule 11 violation. By forcing these corporate entities to fully litigate matters brought helps to put their true corporate identity into light and discourages them from performing as many domestic transactions that may be actionable for a claimant.

In the context of the Judiciary's consideration of the Terrorist Penalties Enhancement Act, H.R. 2934, my colleagues accepted an amendment that I offered that ensured that corporate felons were included in the list of individuals eligible for prosecution for committing terrorist offenses. The amendment that I would have offered for this bill has the same intent—to increase corporate accountability and to encourage corporate activity with integrity.

I ask that my colleagues support the substitute offered by Mr. TURNER and defeat the base bill. We must carefully consider the long-term implications that this bill, as drafted, will have on indigent claimants, the trial attorney community, and facilitation or corporate fraud.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in very strong support of LARA, the Lawsuit Abuse Reduction Act of 2004.

Mr. Speaker, as many of my colleagues know, during this recent August recess, I spent about 10 days in court defending myself against an alleged medical malpractice suit. I am not sure whether this fits the definition, this particular suit, of a frivolous lawsuit, but after the plaintiff's attorneys presented their evidence, over 8 days, to the jury, the trial judge ruled in favor of me and my two partners in my OB/GYN group on a directed verdict. Her decision was based on the fact that there was no evidence whatsoever presented of proximate causation.

I was willing to defend myself in that lawsuit, but a lot of physicians are not. Many times they are faced with what truly are frivolous lawsuits, and they are sometimes encouraged by their malpractice carrier, if it is determined by the carrier that the cost of defending a lawsuit even though it is frivolous is more than what the settlement amount would be, then they are encouraged and oftentimes do settle. It makes the problem that much worse.

Obviously, this problem and what this law addresses is not just unique to the medical profession. There are 600,000 small business men and women in this country who are literally being put out of business because of frivolous lawsuits and, yes, further loss of jobs, which the other side wants to talk about so often and we are concerned about as well. It is time to end this nonsense of frivolous lawsuits.

As the gentlewoman from Pennsylvania said a few minutes ago, 80 percent of the American public agree with us on this issue. Let us get together, both sides of the aisle, and pass this good, commonsense legislation.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 4½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I thank the gentleman for yielding me this time.

Mr. Speaker, just think for a second what is going on in the world this week.

The assault weapons ban expired yesterday, freeing the way for an assault weapons buying frenzy. The Republican Congress refuses to allow a vote on extending the ban on the sale of assault weapons.

Companies all over America continue to offshore American jobs to foreign countries with tax breaks as incentives that the Republicans refuse to take off the books.

Oil prices remain sky high, with analysts expecting them to stay sky high for the foreseeable future, but the Republicans have no plan to protect American consumers from being tipped upside down as they pay gasoline prices and home heating oil prices.

The 9/11 Commission has come back with recommendations that they insist that Congress pass to make sure there is not a repetition of 9/11. The Republican Party refuses to bring those bills out here on the floor.

Osama bin Laden is still at large, and just last week, we had a videotape from his top deputy threatening further attacks on the United States.

We have 1,000 troops who have died in Iraq. We have suffered 5,000 wounded in Iraq, and no end in sight.

North Korea may have exploded a nuclear bomb this week. South Korea is now enriching uranium and plutonium.

So what has the Republican United States Congress decided to do this week? What important issue are we debating? Will it be Iraq? Will it be terrorism? Will it be oil prices? Will it be a stagnant economy? No.

The Republicans have decided that this week, 3 weeks before we adjourn, is lawsuit abuse week, so that we can deny families in our country that have been injured by large corporations from being able to sue those corporations for the damage they did to the children, to the families. And the centerpiece is this Lawsuit Abuse Reduction Act that really should be called the Legislative Abuse Expansion Act.

This bill contains unconstitutional provisions that would force every State court to implement entirely new court rules and procedures. The bill contains unfunded mandates that would force States to conduct an inquiry about what the outcome of the case will be before discovery and trial have even taken place. How is the court supposed to know that? If a case is not lucky enough to be brought before Judge Carnac, the court may have to subpoena witnesses, hold evidentiary hearings and ask the individuals involved to the litigation proceeding to spend time and money on the new ''pretrial trial'' mandated by this bill to block individuals from suing corporations who have hurt American families.

The simple fact is that the amount of civil litigation in this country is not expanding. The Justice Department's Bureau of Justice Statistics and National Center for State Courts track civil cases and verdicts in the Nation's 75 largest counties. They reported in April that, in the last decade, the number of cases has gone down, not up. The bureau reported that the number of general civil cases disposed of by trial in the Nation's largest counties declined from 22,000 in 1992 to 11,000 in 2001, a 47 percent decline.

There is no urgency on this issue. There has been a 47 percent decline in these kind of cases. The plaintiffs won about half the time. And the overall median award was $37,000 in 2001, down from $65,000 in 1992.

Why are we taking these bills up when there is no litigation explosion? Why are we running roughshod over the rights of the States to set rules? Why are we restricting the flexibility of judges to protect ordinary families in our country?

There is only one reason why, because the Republican Party wants to shut down the access that every citizen currently has to our legal system to seek justice and compensation when they have been harmed by the actions of a wealthy corporation. That is what this is all about. Vote ''no'' on this legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I respect greatly the gentleman from Massachusetts (Mr. MARKEY), but when he armed his cannon, he pointed it at the wrong target. This bill has nothing to do with assault weapons or tax breaks or oil prices or the 9/11 Commission or catching Osama bin Laden or casualties in Iraq or whether the North Koreans have a nuclear weapon or not; nor does it deal with legitimate meritorious lawsuits.

What it does deal with is frivolous lawsuits, frivolous lawsuits as defined by the same Federal Rule of Civil Procedure that was on the books for 10 years, between 1983 and 1993, that 80 percent of the Federal judges when they were surveyed believed should be retained in its then current form. This bill does not restrict the access to the courts to anybody who has got a meritorious claim.

But what it does do is that it sanctions those lawyers who file frivolous lawsuits and deter them from filing frivolous lawsuits again. If we did not have sanctions against people, people would ignore the law. If there were no sanctions for driving 50 miles an hour over the speed limit or running a red light, I think it would be pretty dangerous for all of us when we went home. Because the sanctions that are currently in rule 11 have no deterrent effect against filing frivolous lawsuits, there are too many of them. We have heard about them in this debate.

What this bill does is simply go back to what happened prior to 1993, prevents forum shopping and says that, if a lawyer files repeated frivolous filings in the court three times, they are out. We have got to do that if we want to have our courts be used for the administration of justice rather than being a cover for those who wish to file frivolous papers.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, there is a fatal defect in this bill, and that fatal defect is that it would essentially refuse to give American citizens relief if they were injured by a foreign corporation's clear and palpable negligence. The defect in this bill is that, if you live in Seattle, you are hurt in Portland by a failure of a Tokyo corporation, this bill says you cannot bring a claim anywhere in the United States against a Japanese corporation that injured you unless that corporation happens to have a retail outlet in the State where you live or where the accident happened.

□ 1345

And this is a very serious matter. If one lives in Seattle, if they are injured in Portland, and the product that injures them is made in Germany or Japan or England, they are out of luck. They are now shielding out-of-U.S. corporations.

I understand the Republican Party's infatuation with outsourcing, but I do not understand why they would expose Americans and say they cannot bring a claim against somebody that makes a foreign car or foreign construction equipment that injures them.

If my colleagues think I am just sort of blowing smoke here, I want to read from the Congressional Research Service memo on this subject. It says: ''However, if a defendant's principal place of business was not in the United States, then this option,'' meaning suing here, ''could not be exercised in the United States court. Consequently, it would appear that in certain circumstances, the United States citizen or resident injured in this country would not have a judicial forum in the United States in which to seek relief.''

What this bill is, is the Foreign Corporation Protection Act. And for the life of me, I cannot figure out why they would want on the Republican side of the aisle to deny American citizens an avenue in an American court under the American judicial system some right of protection when a foreign corporation hurts them. What is the possible rationale for that?

We need to fix this or reject it.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me this time.

Mr. Speaker, let me respond to some of the concerns voiced by some of those who think they might oppose this bill. First of all, if a foreign corporation is involved, that does not prevent someone from having their day in court. The bill clearly says that it is where the plaintiff lives, and if one is a U.S. citizen, most likely they are going to live in the United States, or where the injury occurred, and the injury would have occurred in this country. So that takes care of their concerns there.

Another previous speaker from Massachusetts started off by talking about the ban on assault weapons. This bill has nothing to do with that, but we do attempt to ban frivolous lawsuits, and in that we are successful. But the gentleman from Massachusetts did make a good point, and I will embrace it entirely, and that is he acknowledged, which I thought was quite an admission, that today there are, in fact, even by his own standards, 11,000 frivolous lawsuits a year. He said they have come down. That is because of the asbestos lawsuits working their way through the various courts. Eleven thousand frivolous lawsuits filed today. I guarantee my colleagues that 99 percent of the American people think 11,000 frivolous lawsuits a year today is 11,000 frivolous lawsuits too many.

Another point I want to respond to, Mr. Speaker, was made by a gentleman who was concerned about the effect of this legislation on civil rights cases that might be filed. I want to assure him and others who might have that similar concern that if they look at section 5 of this bill, it reads: ''Nothing in this bill shall be construed to bar or impede the assertion or development of new claims or remedies under Federal, State, or local civil rights law.'' The reason it says ''new claims'' is because claims that already exist under current law obviously are not frivolous. There is a basis in law for filing those lawsuits. So we protect anybody who might file a civil rights lawsuit in this legislation. Furthermore, if there was some concern about that, one would think that it would have been raised in the full Committee on the Judiciary consideration of this bill. It was not mentioned and no amendments were offered on that point.

Lastly, Mr. Speaker, I also want to reassure not only my colleagues but those who might be listening to this debate that this is not a bill trying to

impugn the motives of all trial lawyers. In fact, the great majority of trial lawyers serve their profession and serve Americans honorably. We are talking about a very few attorneys who, quite frankly, abuse the system, who engage in legalized extortion, who file lawsuits for no other reason than they think someone can settle out of court and they are trying to extract money from them. That is the type of abuse we seek to stop in this bill, and that is the kind of abuse we intend to.

Finally, there are many pieces of legislation considered by this body where we can see where half of the American people might benefit, half might not benefit. But in this case we have at least 99 percent of the American people on one side and just a few lawyers on the other side. And it is very rare, I think, that we would have the vast majority of the American people so clearly favoring one cause, and that is the cause of trying to reduce frivolous lawsuits.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Virginia (Mr. SCOTT) has 1 minute remaining.

Mr. SCOTT of Virginia. Mr. Speaker, as it has been indicated, there is a serious question in some cases of whether or not the forum shopping is limited, one, to a situation where they cannot file anywhere. But I want to quote from a letter from several civil rights organizations. It states: ''More than a decade ago civil rights organizations, including several of the undersigned organizations, worked to amend Rule 11 because the old rule unfairly discouraged meritorious civil rights claims. Nationwide surveys about the former rule found that motions for sanctions were most frequently sought and granted in civil rights cases.'' This bill ''seeks to take us back to the changes made in 1993 to Rule 11 and force litigants to operate under the terms that we fear, like the former rule we worked so hard to amend, will be used to punish and deter valid claims of discrimination. But'' this bill ''goes even further. Not content with changing rules for Federal courts, the bill extends its reach to State courts,'' where the problem of biased judges would even be more acute.

I would point out again that there is no appeal to these cases and this does not apply to cases under existing law that many judges feel are frivolous.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 1 minute remaining.

Mr. SENSENBRENNER. Mr. Speaker, the gentleman from Texas (Mr. SMITH) clearly stated that there is an exemption in this bill on civil rights law and this bill does not apply to the development of new civil rights laws. Further, the survey of the judges that I have referred to in the past, 95 percent of the 751 federal judges believe that the old Rule 11, which the gentleman from Virginia complains of, did not impede the development of the law. That is, 19 judges out of 20 said that the assertion that the gentleman from Virginia made was not correct in their opinion. That is why this bill is a good one and it ought to be passed.

Mr. WEXLER. Mr. Speaker, a vote for this bill is a vote for a rule—rule 11—that it had become an impediment to practicing law, not an impediment to frivolous suits as its proponents would have you think.

The bill before us today seeks to turn back the clock. Eleven years ago, Congress rewrote rule 11 to get rid of mandatory sanctions for frivolous filings because mandatory sanctions had not helped stop frivolous filings and in some cases made them worse. Why then are we going backward today? And if we are going to turn back the clock, why can't we turn back the clock to the unprecedented economic prosperity of the Clinton administration—where we had a balanced budget and a budget surplus, where we had reduced welfare roles and respect on the international stage, and where we had 100,000 new cops on the street and the lowest crime rate in decades.

If we are dead-set on turning back the clock, why must we turn it back to a system that was proven not to work? We tried mandatory sanctions for 10 years. After 10 years with mandatory sanctions, Federal courts recommended against them because they were widely abused and actually added to the wasteful litigating they were intended to prevent.

Our court system is not perfect by any stretch of the imagination. We need to meaningfully address the burden that frivolous lawsuits are placing on our courts and on our society. However, this bill does not provide any new answers; instead it takes us backward to a solution we know doesn't work.

Mr. BISHOP of Georgia. Mr. Speaker, I rise today in opposition to H.R. 4571, the misnamed ''Frivolous Lawsuit Reduction Act,'' and in support of the Turner substitute.

Mr. Speaker, the 11,000 frivolous lawsuits filed yearly are a burden on our court system, which interfere with the administration of justice, and cost U.S. taxpayers millions of dollars each year. I fully support commonsense reform.

H.R. 4571 was drafted by and for large corporations and special interests with unlimited legal resources. It denies justice to injured Americans by limiting them from getting their day in court. That's wrong, Mr. Speaker. It does nothing to help consumers, Mr. Speaker, and targets innocent victims instead of holding responsible those who recklessly or negligently harm others.

The bill also unfairly benefits foreign corporations because it only permits a lawsuit to be filed where the corporation's principal place of business is located, making it more difficult to pursue a personal injury or product liability action against a foreign corporation in the United States. That's also wrong, Mr. Speaker, and it's not the kind of reform that America needs.

The Turner substitute is measured and tough on abuse of the system, while also protecting the rights of injured victims to receive the compensation they deserve. In fact, the substitute's ''three-strikes-and-you're-out'' provisions forbid frivolous filing attorneys from bringing another suit for 10 years. For a first violation the substitute would hold the attorney in contempt. For the second violation the substitute imposes a mandatory fine. And for a third and final violation, a ''third strike,'' you're out. That's tough, Mr. Speaker, and a commonsense approach to frivolous litigation that everyone should support.

The substitute also contains a civil rights carve-out, so that citizens who want to bring new civil rights cases can do so. It contains expedited disposition provisions to weed out junk lawsuits, enhances sanctions for document destruction, and protects injured parties and consumers. Finally, it eliminates the provision in the underlying bill that provides a windfall to foreign or ''Benedict Arnold'' corporations to the disadvantage of their U.S. competitors.

The Turner substitute is tough, Mr. Speaker, it's fair, and it provides real reform while preserving access to the courts for millions of Americans. I urge my colleagues to support it.

Mr. PAYNE. Mr. Speaker, I am pleased to support the Lawsuit Abuse Reduction Act, H.R. 4571, that addresses the problem of frivolous lawsuits in a constitutional manner. As an OB–GYN, I am very aware of the damage frivolous litigation is causing small businesses and medical practitioners. Frivolous lawsuits filed by unscrupulous trial lawyers can drive small businesses into bankruptcy and force doctors to abandon their medical practice. These lawsuits inflict the greatest danger on consumers who must pay more for goods and services and medical patients who cannot find needed medical services in their communities.

H.R. 4571 reduces frivolous lawsuits by exercising Congress's constitutional authority to establish rule of civil procedure for federal courts. Specifically, H.R. 4571 restores mandatory sanctions for attorneys who file frivolous lawsuits. Among other sanctions, attorneys who file frivolous lawsuits may be required to pay the other side's attorneys fees. The possibility of having to pay attorneys fees is an important factor in discouraging ''nuisance'' suits—lawsuits filed in the hopes of extorting cash settlements from defendants who have decided it is better to settle quickly than face the possibility of a lengthy and costly legal proceedings. This form of legal blackmail is one of the most abhorrent practices plaguing our legal system today. I am pleased to see Congress taking action to address it.

H.R. 4571 also ends the practice of forum shopping. Forum shopping is an abuse of Federal ''diversity jurisdiction'' that allows a trial attorney to pick a venue known for awarding large cash awards for spurious claims. All too often, a plaintiff's attorney will choose a forum that has a very tenuous or insignificant relation to the main case, but has a reputation for awarding huge victories to the plaintiff's bar. Forum shopping is especially a problem in class action suits. H.R. 4571 addresses this problem by requiring cases be filed in the Federal district or State where the plaintiff resides, the State or Federal district where the plaintiff was injured or the State or Federal district where the defendant's principal place of business is located.

Mr. Speaker, frivolous lawsuits endanger small business across the country. I am pleased to see Congress today addressing the

litigation crisis, not by attempting to nationalize tort law, but by exercising our constitutional authority over the rules of Federal civil procedure and diversity jurisdiction. I, therefore, urge all my colleagues to support H.R. 4571, the Lawsuit Abuse Reduction Act.

Mr. STARK. Mr. Speaker, I rise in opposition to the so-called Lawsuit Abuse Reduction Act, Nonprofit Athletic Organization Protection Act, and Volunteer Pilot Organization Protection Act. The Republicans are now so desperate to run against trial lawyers in this election that they have turned against our judicial system, student athletes, and countless other Americans.

Almost all volunteers, including coaches, are already protected from frivolous lawsuits by the Volunteer Protection Act of 1997, but the Republicans want to go beyond the better judgment and bipartisan consensus of 1997 in order to create an election-year issue.

Under the athletic organization act, an organization like the NCAA could violate title IX by failing to provide equal opportunities for female athletes, or court violate civil rights, antitrust, or labor laws, and not be held accountable in court.

The 1997 Volunteer Protection Act rightly excluded volunteers who operate ''a motor vehicle, vessel [or] aircraft'' from legal immunity for negligence because volunteerism has to be encouraged without sacrificing the rights of injured parties. The pilot organization protection act destroys this balance by holding most pilots to one standard but allowing volunteer pilots to escape liability for negligence.

The Lawsuit Abuse Protection Act hurts all Americans by exposing them and their attorneys to motions intended to harass them and slow down the legal process, a tactic often used by wealthy defendants in civil rights trials. This is one of many reasons why the U.S. Judicial Conference, headed by Chief Justice William Rehnquist, opposes this bill. H.R. 4571 is also unconstitutional, because it forces every state court to implement new court rules and procedures, even though Congress has no jurisdiction over state courts.

Mr. Speaker, I am happy to stand up for our Constitution, judicial system, athletes, and all Americans by voting ''no'' on these three bills. If that makes me a friend of the trial lawyers, then I proudly stand with Thurgood Marshall, William Jennings Bryan, and Abraham Lincoln over TOM DELAY and George W. Bush.

Mr. BLUMENAUER. Mr. Speaker, H.R. 4571 is a thinly veiled attack on the trial lawyers at the expense of injured plaintiffs. By requiring mandatory sanctions that would apply to civil rights cases, H.R. 4571 will prohibit many legitimate and important civil rights actions from being filed.

No one wants frivolous abuses of our court system. There is no need to sacrifice the rights of individuals to do so. I vote in support of a substitute amendment offered by Congressman TURNER that will protect the civil rights of individuals and against H.R. 4571.

Mr. CONYERS. Mr. Speaker, I do not support this legislation because it will have a significant, adverse impact on the ability of civil rights plaintiffs to seek recourse in our courts, it will operate to benefit foreign corporate defendants at the expense of their domestic counterparts, and it will massively skew the playing field against injured victims.

This bill must be bad given the number of organizations that are opposed to it. This list includes the United States Judicial Conference, the NAACP, Public Citizen, the Alliance for Justice, People for the American Way, the American Association of People with Disabilities, the Lawyers' Committee for Civil Rights Under Law, the American Bar Association, the National Conference on State Legislatures, National Partnership for Women, National Women's Law Center, the Center for Justice & Democracy, Consumers Union, National Association of Consumer Advocates, USAction, U.S. PIRG, and the NAACP Legal Defense Fund.

By requiring a mandatory sanctions regime that would apply to civil rights cases, H.R. 4571 will chill many legitimate and important civil rights actions. This is due to the fact that much if not most of the impetus for the 1993 changes stemmed from abuses by defendants in civil rights cases—namely that civil rights defendants were choosing to harass civil rights plaintiffs by filing a series of rule 11 motions intended to slow down and impede meritorious cases.

Although the bill states that the proposed rule 11 changes shall not be construed to ''bar or impede the assertion or development of new claims or remedies under Federal, State, or local civil rights law,'' the language does not clearly and simply exempt civil rights and discrimination cases, as should be the case. Determining what a ''new claim or remedy'' is will be a daunting and complex issue for most courts and clearly does not cover all civil rights cases in any event.

Section 4, the ''forum shopping'' provision, would operate to provide a litigation and financial windfall to foreign corporations at the expense of their domestic competitors. This is because, instead of permitting claims to be filed wherever a corporation does business or has minimum contacts, as most state long-arm statutes provide, the bill only permits the suit to be brought where the defendant's principal place of business is located—in the case of a foreign corporation, that does not exist in the United States.

If a U.S. citizen is harmed by a product produced or manufactured by a foreign competitor, under H.R. 4571 the harmed U.S. citizen could have no recourse against a foreign corporation, whereas he or she would have recourse against a comparable U.S. corporation. This is unfair to both the U.S. citizen and all U.S. companies that compete against the foreign firm.

I urge you to vote ''no'' to this poorly drafted and unfair piece of legislation.

SEPTEMBER 13, 2004.

DEAR REPRESENTATIVE: We, the undersigned civil rights groups, urge you to vote against H.R. 4571 and H.R. 3369. If enacted, these bills will embolden some to unlawfully discriminate without fear of being held accountable. This legislation will turn back the progress civil rights organizations have made to achieve equal rights under the law these past decades.

Currently, Rule 11 of the Federal Rules of Civil Procedure gives judges discretion to determine whether a claim or defense is frivolous and if so, the appropriate sanctions for such a filing. H.R. 4571 would take away the judge's discretion to impose sanctions and changes Rule 11 of the Federal Rules of Civil Procedure in significant ways that will harm victims of discrimination. By removing the ''safe harbor'' provision that allows a party to withdraw or amend the claim or defense that an opponent argues violates Rule 11 and making sanctions more severe and mandatory, the bill will trigger additional, contentious judicial proceedings that have little to do with the merits of the claims. Thus even civil rights plaintiffs who pursue their legitimate claims with the heightened risk of severe sanctions, may give up at the hands of litigious defendants who employ a rope-a-dope technique to simply wear out their opponents.

Our concerns about the threat to civil rights cases posted by H.R. 4571 are well founded and based on real life experience. More than a decade ago, civil rights organizations—including several of the undersigned organizations—worked to amend Rule 11 because the old rule unfairly discouraged meritorious civil rights claims. Nationwide surveys about the former rule found that motions for sanctions were most frequently sought and granted in civil rights cases. Expressing his concern about the former Rule 11, the Honorable Robert L. Carter, United States District Court Judge for the Southern District of New York, noted, ''I have no doubt that the Supreme Court's opportunity to pronounce separate schools inherently unequal [in Brown v. Board of Education] would have been delayed for a decade had my colleagues and I been required, upon pain of potential sanctions to plead our legal theory explicitly from the start.''

H.R. 4571 seeks to take back the changes made in 1993 to Rule 11 and force litigants to operate under the terms that we fear, like the former rule we worked so hard to amend, will be used to punish and deter valid claims of discrimination. But H.R. 4571 goes even further. Not content with changing the rules for federal courts, the bill extends its reach to State court cases. Upon motion, the court is required to assess the costs of the action ''to the interstate economy.'' If the court determines that the state court action ''affects interstate commerce,'' Rule 11 of the Federal Rules of Civil Procedure ''shall apply to such action.'' Imagining the proceedings necessary to determine whether a particular state court action ''affects interstate commerce'' is mind-boggling. Moreover, the total disregard for federalism is astounding.

We also oppose H.R. 3369, the ''Nonprofit Athletic Organization Protection Act.'' This bill gives immunity to nonprofit athletic organizations. The scope of the legislation could protect an organization that violates federal or state law by discriminating against an athlete on the basis of race, gender, disability or other protections given under federal or state law. No evidence has been presented that nonprofit athletic organizations need such protection. Coaches and other volunteers are already protected from liability under the 1997 Volunteer Protection Act.

We understand that members of Congress who oppose H.R. 3369 risk being accused of siding with ''trial lawyers'' over ''Little Leagues,'' particularly this election season. But it is not the ''trial lawyers'' that need your protection; it is the players themselves and others who may be discriminated against and may have no recourse under this bill who need your protection. Therefore, we respectfully ask you to oppose the bill.

If you have any questions or need more information, please contact Hilary O. Shelton, Director, NAACP Washington Bureau, 202.463.2940 or Sandy Brantley, Legislative Counsel, Alliance for Justice, 202.822.6070.

Sincerely,

Alliance for Justice, American Association of People with Disabilities (AAPD), Lawyers' Committee for Civil Rights Under Law, National Association for the Advancement of Colored People (NAACP), National Partnership for Women, National Women's Law

Center, People For the American Way, USAction, U.S. Public Interest Research Group (U.S. PIRG).

JUDICIAL CONFERENCE
OF THE UNITED STATES,
Washington, DC, July 9, 2004.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Judicial Conference, I write to urge you to reconsider your position on the ''Lawsuit Abuse Reduction Act of 2004'' (H.R. 4571). Section 2 of the bill would reinstitute a rule eliminated in 1993 upon the recommendation of the Judicial Conference, approval by the Supreme Court, and after review by Congress, because of the serious problems it engendered during a ten-year period of operation. Section 2 also would amend Rule 11 of the Federal Rules of Civil Procedure in a manner inconsistent with the longstanding Judicial Conference policy opposing direct amendment of the federal rules by legislation. Section 3 of H.R 4571 would apply the revised federal Rule 11 to certain state court actions, while section 4 would amend the venue standards governing the filing of tort actions in both the federal and state courts: Sections 3 and 4 implicate federal-state comity interests and raise important policy and practical concerns.

SECTION 2

Section 2 would directly amend Civil Rule 11 to remove a court's discretion to impose sanctions on a frivolous filing and eliminate the rule's ''safe-harbor'' provisions. The bill undoes amendments to Rule 11 that took effect on December 1, 1993, and would bring back the provisions that were first introduced in 1983 and removed from the rule in 1993, after a decade of signally bad experiences with the operation and effects of the 1983 rule.

Like H.R. 4571, the 1983 version of Rule 11 required sanctions for every violation of the rule. It spawned thousands of court decisions and generated widespread criticism. The rule was abused by resourceful lawyers, and an entire ''cottage industry'' developed that churned tremendously wasteful satellite litigation that had everything to do with strategic gamesmanship and little to do with underlying claims. Rule 11 motions came to be met with counter motions that sought Rule 11 sanctions for making the original Rule 11 motion.

Some of the other serious problems caused by the 1983 amendments to Rule 11 included:

(1) creating a significant incentive to file unmeritorious Rule 11 motions by providing a possibility of monetary penalty;

(2) engendering potential conflict of interest between clients and their lawyers, who advised withdrawal of particular claims despite the clients' preference;

(3) exacerbating tensions between lawyers; and

(4) providing little incentive, and perhaps a distinct disincentive, to abandon or withdraw a pleading or claim—and thereby admit error—that lacked merit after determining that it no longer was supportable in law or fact.

The 1993 amendments to Rule 11 were designed to strike a fair and equitable balance between competing interests, remedy the major problems with the rule, and allow courts to focus on the merits of the underlying cases rather than on Rule 11 motions. The rule establishes a safe harbor, providing a party 21 days within which to withdraw a particular claim or defense before sanctions can be imposed. If the party fails to withdraw an allegedly frivolous claim or defense within the 21 days, a court may impose sanctions, including assessing reasonable attorney fees. The 1983 Rule 11 authorized a court to sanction discovery-related abuse under Rule 11, Rule 26(g), or Rule 37, which created confusion. Under the 1993 amendments to Rule 11, sanctioning of discovery-related abuse was limited to Rules 26 and 37, which provide for sanctions that include awards of reasonable attorney fees.

The 1993 amendments to Rule 11 culminated a long, critical examination of the rule begun four years earlier. The Advisory Committee on Civil Rules (Advisory Committee) reviewed a significant number of empirical examinations of the 1983 Rule 11, including three separate studies conducted by the Federal Judicial Center in 1985, 1988, and 1991, a Third Circuit Task Force report on Rule 11 in 1989, and a New York State Bar Committee report in 1987. The Advisory Committee took note of several book-length analyses of Rule 11 case law.

The 1991 Federal Judicial Center survey noted that most federal judges believed that the 1983 version of Rule 11 had positive effects. But the study also noted that most judges found several other methods more effective than Rule 11 in handling such litigation and, most significantly, that about one-half of the judges reported that Rule 11 exacerbates behavior between counsel. After reviewing the literature and empirical studies of problems caused by the 1983 amendments to Rule 11, the Advisory Committee issued in 1990 a preliminary call for general comment on the operation and effect of the rule. The response was substantial, calling for a change in the rule.

The Advisory Committee concluded that the cost-shifting in Rule 11 created an incentive for too many unnecessary Rule 11 motions. Amendments to Rule 11 were drafted. The Supreme Court promulgated and transmitted the amendments to Congress in May 1993 after extensive scrutiny and debate by the bench, bar, and public in accordance with the Rules Enabling Act process (28 U.S.C. §§ 2071–2077).

Experience with the amended rule since 1993 has demonstrated a marked decline in Rule 11 satellite litigation without any noticeable increase in the number of frivolous filings. In June 1995, the Federal Judicial Center conducted a survey of 1,130 lawyers and 148 judges on the effects of the 1993 Rule 11 amendments. About 580 attorneys and 120 judges responded to the survey. The Center found general satisfaction with the amended rule. It also found that more than 75% of the judges and lawyers would oppose a provision that would require a court to impose a sanction when the rule is violated. A majority of the judges and lawyers, both plaintiffs' and defendants' lawyers, believed that groundless litigation was handled effectively by judges.

Undoing the 1993 Rule 11 amendments, even though no serious problem has been brought to the Judicial Conference rules committees' attention, would frustrate the purpose and intent of the Rules Enabling Act. Section 2 of H.R. 4571 would effectively reinstate the 1983 version of Rule 11 that proved so contentious and wasted so much time and energy of the bar and bench. Section 2, indeed, in some ways seems to go beyond the provisions that created serious problems with the 1983 rule. It may cause even greater mischief. Rule 11 in its present form has proven effective and should not be revised.

SECTIONS 3 AND 4

Section 3 would extend the new requirements of a mandatory Rule 11 to all state court litigation that the state court deems, on motion, to affect interstate commerce. Two features of this provision stand out. First, it would directly regulate the practice and procedure of state courts, mandating a federal standard for the imposition of sanctions for the filing of frivolous or ungrounded complaints and other papers in state court. At present, states have been free to adopt their own rules of practice, including a version of Rule 11, if a state so chooses. Second, section 3 does not specify the actions to which it would apply. Rather, it imposes on state judges a broad generalized test to determine whether or not federal Rule 11 would apply in a given case. If enacted, this section could affect the cost and duration of a very large number of civil actions in state courts.

Section 4 seeks to prevent forum shopping by specifying the places where a plaintiff may bring a ''personal injury'' claim by imposing a federal standard for determining the venue of state law personal injury claims, in both state and federal court. Such a federal standard would displace existing state venue rules or statutes. It would also significantly alter the statutes in title 28, United States Code, that now govern venue (section 1391) and transfer of venue (section 1404) in the federal courts.

The Judicial Conference opposes the enactment of H.R. 4571 for the reasons stated above as to section 2. Sections 3 and 4 would make important changes in the administration of civil justice in both federal and state courts. The Judicial Conference has not had the opportunity to formally assess the advisability or impact of these sections, but notes that they may substantially affect federal-state comity interests and raise important policy and practical concerns.

The Judicial Conference greatly appreciates your consideration of its views. If you or your staff have any questions, please contact Michael W. Blommer, Assistant Director, Office of Legislative Affairs, Administrative Office of the U.S. Courts, at (202) 502–1700.

Sincerely,

LEONIDAS RALPH MECHAM,
Secretary.

NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE,
Washington, DC, September 14, 2004.

Re NAACP opposition to H.R. 4571, the so-called ''Frivolous Lawsuit Reduction Act''.

MEMBERS,
House of Representatives,
Washington, DC.

DEAR MEMBER OF CONGRESS: On behalf of the National Association for the Advancement of Colored People (NAACP), our nation's oldest, largest and most widely-recognized grass roots civil rights organization, I am writing to urge you, in the strongest terms possible, to oppose H.R. 4571, the so-called ''Frivolous Lawsuit Reduction Act.'' Specifically, the NAACP is convinced that should this misguided legislation become law, it will have a serious and adverse impact on the ability to bring civil rights cases.

While the NAACP is actively opposed to strategic lawsuits against public participation (SLAPP suits), a careful review of H.R. 4571 shows clearly that this particular legislation does not address our concerns. In fact, if enacted, H.R. 4571 would embolden some to unlawfully discriminate without fear of being held accountable. H.R. 4571 would dramatically alter the operation of Rule 11 of the Federal Rules of Civil Procedure and apply the new rule to state as well as federal courts. Rule 11 prohibits attorneys from engaging in litigation tactics that harass or cause unnecessary delay or cost, or from making frivolous legal arguments or unwanted factual assertions. The current Rule

11 was adopted in 1993 in an effort to correct numerous problems resulting from amendments that had been made in 1983. Rather than curbing the problem of frivolous lawsuits, as it was intended to do, the 1983 revisions spawned thousands of court decisions and generated widespread criticism. It was abused by resourceful attorneys and resulted in wasteful satellite litigation and rising incivility of the bar.

Furthermore, much of the impetus for the 1993 changes stemmed from abuses by defendants in civil rights cases; civil rights defendants were choosing to harass civil rights plaintiffs by filing a series of Rule 11 motions intended to slow down or impeded meritorious cases or intimidate the defendants or their attorneys. In fact, several studies determined that prior to the 1993 changes Rule 11 motions were used more frequently in civil rights cases than any other types of lawsuits.

While language nominally intended to mitigate the damage that this bill will cause to civil rights cases has been added, it is vague and simply insufficient in addressing our concerns. Even with this weak and ineffective provision, H.R. 4571 would be extremely detrimental to those of us who are forced to seek legal recourse to address discrimination in our country. Thus, I urge you again, in the strongest terms possible, to oppose H.R. 4571 and to see that it is defeated. Should you have any questions about this legislation or the NAACP opposition to it, please feel free to contact either me or Carol Kaplan on my staff at (202) 463–2940. Thank you in advance for your consideration of the NAACP position.

Sincerely,

HILARY O. SHELTON,
Director.

AMERICAN BAR ASSOCIATION,
GOVERNMENTAL AFFAIRS OFFICE,
Washington, DC, June 29, 2004.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you regarding the hearing your Committee held June 22, 2004 on H.R. 4571, legislation to make changes in Rule 11 of the Federal Rules of Civil Procedure; make an amended Rule 11 of the Federal Rules of Civil Procedure applicable to cases filed in state courts if such cases affect interstate commerce; and make changes relating to jurisdiction and venue for personal injury cases filed in state and federal courts.

The ABA opposes the provisions in the legislation that would change the Federal Rules of Civil Procedure without going through the process set forth in the Rules Enabling Act. The ABA fully supports the Rules Enabling Act process, which is based on three fundamental concepts: (1) the central role of the judiciary in initiating judicial rulemaking, (2) procedures that permit full public participation, including by the members of the legal profession, and (3) recognition of a congressional review period. We view the proposed rules changes to the Federal Rules in H.R. 4571 as a retreat from the Rules Enabling Act.

In 28 U.S.C. §§2072–74, Congress prescribed the appropriate procedure for the formulation and adoption of rules of evidence, practice and procedure for the federal courts. This well-settled, Congressionally-specified procedure contemplates that evidentiary and procedural rules will in the first instance be considered and drafted by committees of the United States Judicial Conference, will thereafter be subject to thorough public comment and reconsideration, will then be submitted to the United States Supreme Court for consideration and promulgation, and will finally be transmitted to Congress, which retains the ultimate power to veto any rule before it takes effect.

This time-proven process proceeds from separation-of-powers concerns and is driven by the practical recognition that, among other things:

(1) Rules of evidence and procedure are inherently a matter of intimate concern to the judiciary, which must apply them on a daily basis;

(2) Each rule forms just one part of a complicated, interlocking whole, rendering due deliberation and public comment essential to avoid unintended consequences; and

(3) The Judicial Conference is in a unique position to draft rules with care in a setting isolated from pressures that may interfere with painstaking consideration and due deliberation.

We do not question congressional power to regulate the practice and procedure of federal courts. Congress exercised this power by delegating its rulemaking authority to the judiciary through the enactment of the Rules Enabling Act, while retaining the authority to review and amend rules prior to their taking effect. We do, however, question the wisdom of circumventing the Rules Enabling Act, as H.R. 4571 would.

We also have serious concerns about the provisions in H.R. 4571 that would impose the Federal Rules on the state courts and would impose the changes relating to jurisdiction and venue for personal injury cases filed in state and federal courts. We hope your Committee will not move on legislation containing such departures from current law until we and others have sufficient time to analyze the impact they would have on the state courts and so we will be able to present our views to you on these very important matters.

We respectfully request that this letter be made part of the permanent hearing record of June 22, 2004.

Sincerely,

ROBERT D. EVANS.

Mr. GOODLATTE. Mr. Speaker, I rise today in support of H.R. 4571, the Lawsuit Abuse Reduction Act.

Last year, I introduced legislation to address the escalating problems that accompany frivolous lawsuits, the Class Action Fairness Act. This legislation would reform the Federal rules that govern class actions so that truly interstate lawsuits would be heard in Federal courts, like the Framers envisioned. The current class action rules provide an opportunity for opportunistic lawyers to game the system and extort money from legitimate businesses.

The abuse of the class action process is just one example of how the current litigious atmosphere in our country threatens to undermine the growth and innovation that has characterized our great Nation since its founding. Frivolous lawsuits force businesses to waste time and resources that could otherwise be spent on new products, new services, or innovative procedures that could reduce the costs of goods and services for consumers.

Small businesses rank the cost and availability of liability insurance second only to the costs of health care as their top priority. Not coincidentally, both of these problems are fueled by frivolous lawsuits.

H.R. 4571 is another commonsense approach to combat frivolous lawsuits. It would restore mandatory sanctions for filing frivolous lawsuits and allow monetary sanctions, including attorney's fees and compensatory costs, against any party making a frivolous claim. H.R. 4571 would also allow sanctions for abuse of the discovery process, and would abolish the current "free pass" provision that allows lawyers to avoid sanctions if they withdraw the frivolous claim within 21 days after a motion for sanctions has been filed.

By restoring strong penalties against those that file frivolous claims, the Lawsuit Abuse Reduction Act will give businesses the freedom to devote their resources to doing business, rather than wasting their resources defending frivolous litigation.

I urge my colleagues to support this important legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. TURNER OF TEXAS

Mr. TURNER of Texas. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. TURNER of Texas:

Strike all after the enacting clause and insert the following:

SEC. 1. "THREE STRIKES AND YOU'RE OUT" FOR FRIVOLOUS PLEADINGS.

(a) SIGNATURE REQUIRED.—Every pleading, written motion, and other paper in any action shall be signed by at least 1 attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(b) CERTIFICATE OF MERIT.—By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances—

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a non frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are reasonable based on a lack of information or belief.

(c) MANDATORY SANCTIONS.—

(1) FIRST VIOLATION.—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated, the court shall find each attorney or party in violation in contempt of court and shall require the payment of costs and attorneys fees. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit, and sanctions plus interest, upon the person in violation, or upon both such person and such person's attorney or client (as the case may be).

(2) SECOND VIOLATION.—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated and that the attorney or party with respect to which the determination was made

has committed one previous violation of subsection (b) before this or any other court, the court shall find each such attorney or party in contempt of court and shall require the payment of costs and attorneys fees, and require such person in violation (or both such person and such person's attorney or client (as the case may be)) to pay a monetary fine. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit and sanctions plus interest, upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

(3) THIRD AND SUBSEQUENT VIOLATIONS.—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated and that the attorney or party with respect to which the determination was made has committed more than one previous violation of subsection (b) before this or any other court, the court shall find each such attorney or party in contempt of court, refer each such attorney to one or more appropriate State bar associations for disciplinary proceedings, require the payment of costs and attorneys fees, and require such person in violation (or both such person and such person's attorney, or client (as the case may be)) to pay a monetary fine. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit, and sanctions plus interest, upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

(4) APPEAL; STAY.—An attorney has the right to appeal a sanction under this subsection. While such an appeal is pending, the sanction shall be stayed.

(5) NOT APPLICABLE TO CIVIL RIGHTS CLAIMS.—Notwithstanding subsection (d), this subsection does not apply to an action or claim arising out of Federal, State, or local civil rights law or any other Federal, State, or local law providing protection from discrimination.

(d) APPLICABILITY.—Except as provided in subsection (c)(5), this section applies to any paper filed on or after the date of the enactment of this Act in—

(1) any action in Federal court; and

(2) any action in State court, if the court, upon motion or upon its own initiative, determines that the action affects interstate commerce.

SEC. 2. "THREE STRIKES AND YOU'RE OUT" FOR FRIVOLOUS CONDUCT DURING DISCOVERY.

(a) SIGNATURES REQUIRED ON DISCLOSURES.—Every disclosure made pursuant to subdivision (a)(1) or subdivision (a)(3) of Rule 26 of the Federal Rules of Civil Procedure or any comparable State rule shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. An unrepresented party shall sign the disclosure and state the party's address. The signature of the attorney or party constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the disclosure is complete and correct as of the time it is made.

(b) SIGNATURES REQUIRED ON DISCOVERY.—

(1) IN GENERAL.—Every discovery request, response, or objection made by a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. An unrepresented party shall sign the request, response, or objection and state the party's address. The signature of the attorney or party constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the request, response, or objection is:

(A) consistent with the applicable rules of civil procedure and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

(B) not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and

(C) not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.

(2) STRICKEN.—If a request, response, or objection is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the party making the request, response, or objection, and a party shall not be obligated to take any action with respect to it until it is signed.

(c) MANDATORY SANCTIONS.—

(1) FIRST VIOLATION.—If without substantial justification a certification is made in violation of this section, the court, upon motion or upon its own initiative, shall find each attorney or party in contempt of court and shall require the payment of costs and attorneys fees. The court may also impose additional sanctions, such as imposing sanctions plus interest or imposing a fine upon the person in violation, or upon such person and such person's attorney or client (as the case may be).

(2) SECOND VIOLATION.—If without substantial justification a certification is made in violation of this section and that the attorney or party with respect to which the determination is made has committed one previous violation of this section before this or any other court, the court, upon motion or upon its own initiative, shall find each attorney or party in contempt of court and shall require the payment of costs and attorneys fees, and require such person in violation (or both such person and such person's attorney or client (as the case may be)) to pay a monetary fine. The court may also impose additional sanctions upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

(3) THIRD AND SUBSEQUENT VIOLATIONS.—If without substantial justification a certification is made in violation of this section and that the attorney or party with respect to which the determination is made has committed more than one previous violation of this section before this or any other court, the court, upon motion or upon its own initiative, shall find each attorney or party in contempt of court, shall require the payment of costs and attorneys fees, require such person in violation (or both such person and such person's attorney or client (as the case may be)) to pay a monetary fine, and refer such attorney to one or more appropriate State bar associations for disciplinary proceedings. The court may also impose additional sanctions upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

(4) APPEAL; STAY.—An attorney has the right to appeal a sanction under this subsection. While such an appeal is pending, the sanction shall be stayed.

(d) APPLICABILITY.—This section applies to any paper filed on or after the date of the enactment of this Act in—

(1) any action in Federal court; and

(2) any action in State court, if the court, upon motion or upon its own initiative, determines that the action affects interstate commerce.

SEC. 3. BAN ON CONCEALMENT OF UNLAWFUL CONDUCT.

(a) IN GENERAL.—A court may not order that a court record be sealed or subjected to a protective order, or that access to that record be otherwise restricted, unless the court makes a finding of fact in writing that identifies the interest that justifies the order and that determines that the order is no broader than necessary to protect that interest.

(b) APPLICABILITY.—This section applies to any court record, including a record obtained through discovery, whether or not formally filed with the court.

SEC. 4. ENHANCED SANCTIONS FOR DOCUMENT DESTRUCTION.

(a) IN GENERAL.—Whoever influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, a pending court proceeding through the intentional destruction of documents sought in, and highly relevant to, that proceeding—

(1) shall be punished with mandatory civil sanctions of a degree commensurate with the civil sanctions available under Rule 37 of the Federal Rules of Civil Procedure, in addition to any other civil sanctions that otherwise apply; and

(2) shall be held in contempt of court and, if an attorney, referred to one or more appropriate State bar associations for disciplinary proceedings.

(b) APPLICABILITY.—This section applies to any court proceeding in any Federal or State court.

SEC. 5. EXPEDITED DISPOSITION OF FRIVOLOUS AND OTHER LAWSUITS.

(a) IN GENERAL.—For each State, each judicial district in the State shall, within 2 years of the date of the enactment of this Act, develop and implement a civil justice expense and delay reduction plan and submit it to the appropriate governing body of the State. The governing body shall make the plan available to the public.

(b) PRINCIPLES.—Each plan required by subsection (a) shall apply to actions in State court that affect interstate commerce and any other actions that the governing body considers appropriate. The plan shall be developed and implemented with regard to the following principles:

(1) Systematic, differential treatment of civil cases that tailors the level of individualized and case specific management to such criteria as case complexity, the amount of time reasonably needed to prepare the case for trial, and the judicial and other resources required and available for the preparation and disposition of the case.

(2) Early and ongoing control of the pretrial process through involvement of a judicial officer in—

(A) assessing and planning the progress of a case;

(B) setting early, firm trial dates, such that the trial is scheduled to occur within eighteen months after the filing of the complaint, unless a judicial officer certifies that—

(i) the demands of the case and its complexity make such a trial date incompatible with serving the ends of justice; or

(ii) the trial cannot reasonably be held within such time because of the complexity of the case or the number or complexity of pending criminal cases;

(C) controlling the extent of discovery and the time for completion of discovery, and ensuring compliance with appropriate requested discovery in a timely fashion; and

(D) setting, at the earliest practicable time, deadlines for filing motions and a time framework for their disposition.

(3) For all cases that the court or an individual judicial officer determines are complex and any other appropriate cases, careful

and deliberate monitoring through a discovery-case management conference or a series of such conferences at which the presiding judicial officer—

(A) explores the parties' receptivity to, and the propriety of, settlement or proceeding with the litigation;

(B) identifies or formulates the principal issues in contention and, in appropriate cases, provides for the staged resolution or bifurcation of issues for trial consistent with Rule 42(b) of the Federal Rules of Civil Procedure;

(C) prepares a discovery schedule and plan consistent with any presumptive time limits that a district court may set for the completion of discovery and with any procedures a district court may develop to—

(i) identify and limit the volume of discovery available to avoid unnecessary or unduly burdensome or expensive discovery; and

(ii) phase discovery into two or more stages; and

(D) sets, at the earliest practicable time, deadlines for filing motions and a time framework for their disposition.

(4) Encouragement of cost-effective discovery through voluntary exchange of information among litigants and their attorneys and through the use of cooperative discovery devices.

(5) Conservation of judicial resources by prohibiting the consideration of discovery motions unless accompanied by a certification that the moving party has made a reasonable and good faith effort to reach agreement with opposing counsel on the matters set forth in the motion.

(6) Authorization to refer appropriate cases to alternative dispute resolution programs that—

(A) have been designated for use in a district court; or

(B) the court may make available, including mediation, minitrial, and summary jury trial.

(c) TECHNIQUES.—In developing the plan required by subsection (a), a judicial district shall consider and may include the following techniques:

(1) A requirement that counsel for each party to a case jointly present a discovery-case management plan for the case at the initial pretrial conference, or explain the reasons for their failure to do so.

(2) A requirement that each party be represented at each pretrial conference by an attorney who has the authority to bind that party regarding all matters previously identified by the court for discussion at the conference and all reasonably related matters.

(3) A requirement that all requests for extensions of deadlines for completion of discovery or for postponement of the trial be signed by the attorney and the party making the request.

(4) A neutral evaluation program for the presentation of the legal and factual basis of a case to a neutral court representative selected by the court at a nonbinding conference conducted early in the litigation.

(5) A requirement that, upon notice by the court, representatives of the parties with authority to bind them in settlement discussions be present or available by telephone during any settlement conference.

(6) Such other features as the judicial district considers appropriate.

The SPEAKER pro tempore. Pursuant to House Resolution 766, the gentleman from Texas (Mr. TURNER) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 20 minutes.

Mr. TURNER of Texas. Mr. Speaker, I yield myself such time as I may consume.

I offered a substitute, which I believe is much stronger in preventing frivolous lawsuits than the bill offered to the House. In addition, it preserves the right that was mentioned earlier to sue a foreign corporation, which is jeopardized in the bill offered before us.

The Republican bill also weakens our civil rights laws by having a chilling effect upon suits relating to civil rights, and our substitute carves out an exception for civil rights litigation. But, most importantly, it does not eliminate the possibility that one may be unable to sue a foreign corporation in the United States.

First of all, our bill strengthens the provisions against frivolous lawsuits. Members on both sides of the aisle uniformly, unanimously agree that our laws and our rules of procedure must prohibit frivolous lawsuits. Our bill imposes a mandatory ''three strikes and you're out'' provision on frivolous pleadings and discovery violations. Thus, it is far more stringent than the Republican bill, which merely subjects these violations to mandatory payment of cost and fees. More importantly, our bill includes clear and specific civil rights carve outs so there will not be a chilling effect on these actions. We also amend the United States Code so that the change is not subject to future changes and modifications by the courts as the Republican bill would be.

Second, our bill limits the ability of corporate wrongdoers to conceal any conduct harmful to the public welfare by requiring that court records may not be sealed unless the court first enters a finding that such sealing is justified. This provision will help ensure that information on dangerous products and actions is made available to the public. A nearly identical provision passed by voice vote in the 107th Congress with the support of the gentleman from Wisconsin (Chairman SENSENBRENNER). The Republican bill does not contain this very important protection.

Third, we provide that parties which destroy documents in connections with civil proceedings shall be punished with mandatory civil sanctions, held in contempt of court, and referred to the State bar for disciplinary proceedings. Again, this is far tougher than the Republican bill, which does not provide for contempt of court and disciplinary proceedings.

And, fourth, we specify that the Civil Justice Reform Act, which has been so successful in the Federal courts, be applied to all courts in order to speed up the pretrial process and to weed out junk lawsuits.

And, finally, unlike the Republican bill, our substitute does not have this new rule of jurisdiction that operates to make it impossible to sue a foreign corporation in this country and, further, by the absence of such provision, promotes corporations in our own country continuing this despicable process of relocating their headquarters overseas in order to avoid U.S. taxes, and now they will do so to avoid being sued. There is no reason to give these companies a windfall profit, windfall gain, at the expense of corporations who do the right thing and stay here at home.

This is a common sense substitute. It cracks down on frivolous lawsuits even more forcefully than the Republican bill. It preserves our antitrust laws and our ability to obtain justice against foreign corporations. It is a better bill, a stronger bill, and one that we would urge this House to substitute for the bill offered by our Republican colleagues.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to this substitute amendment which guts the bill.

Where to begin? I will begin with the title of the first section of the substitute. It is entitled ''Three Strikes and You're Out.'' But it is not true when we read the substitute. In fact, the substitute provides that following three violations of this provision, the court ''shall refer each such attorney to one or more appropriate State bar associations for disciplinary proceedings.'' Three strikes and you are still in.

The Democratic substitute does not say that the attorney shall be suspended from the practice of law. That is what the base bill says. The bill says that after three strikes ''The Federal District court shall suspend that attorney from the practice of law in that Federal District Court.''

The base bill follows through on its ''three strikes and you're out'' promise. The Democratic substitute says ''three strikes and you have a foul ball.''

But it gets worse. Not only are the filers of frivolous lawsuits not out after three strikes under the Democratic substitute, but the Democratic substitute even changes what a strike is under existing law. Currently Rule 11 contains four criteria that can lead to a Rule 11 violation. The Democratic substitute references only three, kind of like shrinking the strike zone.

Currently, Rule 11 allows sanctions against frivolous filers whose denials of factual contentions are not ''warranted on the evidence'' or are not ''reasonably based on the lack of information and belief.'' The Democratic substitute removes this protection from the victims of frivolous lawsuits under existing law. The Democratic substitute for the first time without penalty allows defendants to file papers with the court that include factual denials of allegations against them that are not warranted by the evidence and not reasonably based. In other words, misleading and unfactual filings end up getting a get-out-of-jail-free card under the Democratic substitute.

□ 1400

Instead, the substitute provides additional protection for defendants filing frivolous defenses that are not warranted by the evidence and not reasonably based. This is a step backward for victims of frivolous lawsuits under both State and Federal law.

Further, the base bill provides that those who file frivolous lawsuits can be made to pay all of the costs and attorneys' fees that are ''incurred as a direct result of filing of the pleading, motion, or other paper, that is the subject of the violation.'' The Democratic substitute does not include that critical language, which is necessary to make clear that those filing frivolous lawsuits must be made to pay the full costs imposed on their victim by the frivolous lawsuit.

The Democrat substitute also imposes complicated mandates on each State's judicial districts, requiring them to ''develop and implement a civil justice expense and delay reduction plan.'' The Democratic substitute requires States to implement these mandates under exceedingly complex requirements that span all the way from pages 10 to page 15 of the Democratic substitute and requires things like ''systematic, differential treatment of civil cases that tailors the level of individualized and case specific management,'' whatever that means. At a minimum, this is overly burdensome, and may be unconstitutional.

The Democratic substitute requires that States ''develop and implement'' these plans when the Supreme Court has held that ''Congress may not simply commandeer the States by directly compelling them to enact and enforce a Federal regulatory program.'' That is in New York v. The United States 1992. That is exactly what the Democratic substitute does without any justification under the Commerce Clause of the Constitution.

The Democratic substitute also completely overrides State laws regarding the sealing of records in all cases, including proceedings in which State laws protect the privacy of sexual abuse victims, including children. And let me repeat this: if the Democratic substitute passes and becomes law, State laws relative to the sealing of court records on sexual abuse cases, including those against minors, can be open to public scrutiny. Shame on you. This blunderbuss provision in the Democratic substitute covers State divorce proceedings, and even all criminal cases, without a showing of why State procedures are inadequate.

The Democratic substitute also retains rule 11's current ''free pass'' provision, which allows lawyers to avoid sanctions for making frivolous claims simply by withdrawing those claims within 21 days after a motion for sanctions has been filed.

Now, let us look at that. A frivolous claim or frivolous filing has been made. You have 21 days after you make it to withdraw it. But meantime, the opposite party has got to go to the legal expense to make the motion to the court to show that the claim is frivolous. And who ends up paying the bill on that? Not the lawyer who filed the frivolous claim, but the defendant and the defendant's lawyers; and that provision actually encourages frivolous lawsuits by allowing unlimited numbers of frivolous pleadings to be filed without penalty. Talk about a loophole big enough to drive the Queen Mary through, that is it.

The Democratic substitute also does not include the bill's essential provisions to prevent the unfair practice of forum shopping.

In short, the Democratic substitute does not provide for three strikes and you are out. It provides for three strikes and you get referred to the State Bar Association that can continue to let the offending attorney practice law. The Democratic substitute even weakens existing law that protects plaintiffs from defendants that file frivolous denials that are not warranted by the evidence and are not reasonably based. The substitute also fails to provide that attorneys' fees be awarded to cover the full costs of responding to a frivolous lawsuit, and the substitute also burdens the States by directly compelling them to enact and enforce a Federal regulatory program. It overrides State procedures governing the confidentiality of documents in the course of legal proceedings. That is more than three strikes against the Democratic substitute, and it should be soundly defeated.

Mr. Speaker, I reserve the balance of my time.

Mr. TURNER of Texas. Mr. Speaker, I yield myself such time as I may consume.

I would remind the distinguished chairman that careful reading of our bill would reveal to him there is no safe harbor allowing any period of days, 21 or otherwise, to withdraw pleadings that may be frivolous. What we have done in our bill is we have amended the statute. We have provided a new statute against frivolous lawsuits; we do not disturb rule 11. We urge him to take a closer look at the bill and what we propose.

I would also suggest to the distinguished chairman that the provision in our bill to protect the public against automatic sealing of certain court records which may be important and contain important information that should be available to the public to protect the public against things like defective products and other things, the decision to seal is one that is in the hands of the court and the sealing must be justified clearly. In the cases of sexual abuse, that sealing is justified. I do not know any judge in the land that would not understand that. And, certainly, I do not see any judge taking the language that we have offered and overturning any State law or issuing any ruling contrary to State law that would not result in the sealing of sexual abuse cases.

The major principal defect in the Republican bill relates to the fact that you are unable to sue a foreign corporation because they attempt to change the law as it presently exists and to make the provision require that you file against a corporation where their principal place of business is. There are many foreign corporations that may be in the United States that do not have their principal place of business here; it is overseas. So the language that has been offered has the effect of denying a plaintiff with a genuine injury, not a frivolous lawsuit, but a genuine, valid lawsuit from being able to sue a foreign corporation.

That provision, perhaps the Republican drafters of their bill did not understand what they were doing with the language they offered, but that is the effect of it; and I think anyone who votes for the Republican bill and says that we are denying an American citizen the opportunity with a legitimate claim to file a suit in the United States against a foreign corporation is casting a vote they will regret.

I also think it is important to point out that the sanctions that are provided in the Democratic substitute are stronger than the provisions in the Republican bill. It is also, I think, important to point out that our sanctions apply to State courts where interstate commerce is involved. Your ''three strikes and you are out'' provision does not apply in State courts, perhaps, again, by drafting error; but it does not apply.

So we think it is very critical that this bill be the one the House adopts.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Speaker, I thank the gentleman for yielding me this time. It frequently falls upon me as a nonlawyer on the Committee on the Judiciary to try to sort through the facts of these things and try to reduce them into small words that those of us who are nonlawyers can understand. But I was taken by one fact that was articulated by one of my colleagues on the other side that according to a recent survey, 80 percent of the American people are against frivolous lawsuits. I would love to know who the 20 percent are that like frivolous lawsuits so that we can have a focus group with them. They are probably lawyers of some sort, I would imagine.

First, let me just say we rarely have an opportunity to take a look at a proposal before us today and look at almost an identical proposal that was the law of the land between 1983 and 1993. Then, too, there was an effort to unclog the courts of frivolous lawsuits; then, too, the Judicial Conference, not this body, the Judicial Conference said we have to try to come up with some rules.

What was the effect? The effect was not reducing the amount of frivolous lawsuits; it was adding a whole new level of litigation around frivolous lawsuits. Rather than simply having a

judge say, that is frivolous, it is out of here, let us move on with the case, you then had suits and countersuits over whether or not something was frivolous, because it was elevated with the changes that were made in that decade.

We also found that an unintended consequence, and I think even my colleagues acknowledge that it was unintended by their effort, albeit insubstantial, to carve out civil rights suits, we found that when you were bringing a novel, new kind of suit, you found yourself being charged with making a frivolous lawsuit. Civil rights cases is just one of them. We also saw the same thing could have or did happen when you sued tobacco companies to recover for States.

And today, I would dare say that someone who brought a case that is being brought in New York today, suing the country of Saudi Arabia for their culpability in the September 11 attacks, someone could come before a judge and say this is a frivolous lawsuit because it represents no precedent, it has never been tried before and, therefore, should be dismissed.

Obviously, it did not have that effect in that 10 years of clearing out the docket of frivolous lawsuits. If anything, it increased them.

Secondly, we have heard frequently the matrix drawn between frivolous lawsuits, increase of litigation, and insurance rates. I looked at the bill fairly carefully. Nowhere does it require that insurance rates go down, so I will have to assume the same thing will happen upon passage of this bill, although the passage will not happen, because the other body will never take up such a bill, that you will put in the restrictions of average Americans getting into court and then, lo and behold, insurance rates keep going up and up and up, because that is what happened in California, and that is what happened in Florida. So if my colleagues think that by voting for this bill they will be reducing insurance rates, nothing could be further from the truth.

There has been some back-and-forth about this notion of venue shopping: you can only bring an action in the defendant's, not the person who is bringing the case, the defendant's principal place of business. Well, again, I have very talented lawyers on both sides of this, but the Congressional Research Service, the American Law Division, hardly a pantheon of partisanship, hardly the place to go to get the talking points for Fox News or for whoever guys think lies, they write, ''If a defendant's principal place of business was not the United States, then this option could not be exercised in a United States court. Consequently, it would appear that in certain circumstances, a United States citizen or resident injured in this country would not have a judicial forum in the United States in which to seek relief.''

That is what a relatively unbiased analysis of this thing looks like; but even if it is not, what problem are you trying to solve? You should allow Americans to take their cases where they are most appropriate, not where you believe it should be.

Now, let me conclude with this thought. I heard a couple of times on the campaign trail President Bush talked about not having a Washington-based, one-size-fits-all solution for our Nation's problems. There is another way to do this. There is another way. There is a way to look at cases that have individual facts, have individual people, take them before an individual, say a judge; or take those cases before a group of individuals, say six or nine or 12 individual Americans from their community, and allow them to vet the different sides of the argument and allow that to be the decision-making process. It is called the American justice system, and as contemptuous as my colleagues on the other side of the aisle are that you could actually have a judge that has the common sense to make a decision or a jury that has the common sense to make a decision, or whether you can possibly have two lawyers in the adversarial proceeding get the truth out, we here in Washington have to say, this one size fits all.

Well, fortunately, this one size will only be in this one House and will never be the law of this one land.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, anyone who is worried about what frivolous lawsuits will do to them, their family, their friends, or their businesses ought to rush to oppose this Democratic substitute amendment. That is because it is an amendment that will do very little to prevent frivolous lawsuits.

The underlying bill makes several key changes that will deter lawyers from filing frivolous lawsuits. The substitute amendment before us strips all these away.

First, this legislation, the underlying legislation, allows the court to require an individual who files a frivolous lawsuit to pay attorneys' fees incurred as a result of the frivolous lawsuit. This provision obviously makes attorneys think twice before they file such a frivolous lawsuit. However, the Democratic substitute amendment does not include this key provision. In other words, there is no disincentive to file a frivolous lawsuit.

This also means that under the Democratic substitute, small business owners would still suffer from the cost of frivolous lawsuits. Individuals would still suffer because they would see their insurance premiums go up. They would see their health care costs rise. They would still see their reputations damaged, all because of wrongfully filed, frivolous lawsuits.

In other words, Mr. Speaker, this substitute amendment does not provide any relief to those who would get unfairly slapped with a frivolous lawsuit. Those victims would still have to pay their own legal fees.

Next, this substitute claims to have a ''three strikes and you are out'' provision. But if you look at it closely, as the chairman mentioned a while ago, there are no real consequences for the attorney who repeatedly files frivolous lawsuits.

□ 1415

Instead, the substitute merely requires a court to refer the offending attorney to his State bar association; and you can imagine that means that nothing is going to happen.

By contrast, the base bill requires that attorneys who fill frivolous claims face real consequence. Those attorneys can be barred from practicing in that Federal court for a year. That is a real disincentive to file frivolous lawsuits.

Also, the Democratic substitute we are considering now places heavy mandates on States. It requires a new regulatory scheme to deal with ''civil justice expense and delay'' issues. Mr. Speaker, I think that is a very nice but meaningless euphemism for frivolous lawsuits. The requirements would create a new bureaucratic nightmare instead of dealing with the real problem, which is of course frivolous lawsuits.

Finally, Mr. Speaker, the substitute amendment does nothing to address the problem of forum shopping and that is at least half the problem. We simply cannot continue to allow trial attorneys to flock to counties that will award unreasonably high verdicts to any plaintiff who walks in the door. This does too much damage to many Americans and it is, quite frankly, time to put a stop to this type of abuse.

Mr. Speaker, I urge my colleagues to oppose to substitute amendment and vote yes on the underlying bill which would deter lawsuit abuse.

Mr. TURNER of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, there is a significant difference in the civil rights exemption in the underlying bill and this amendment. This amendment is vastly superior because it exempts all civil rights cases, not just those cases that are based on new or evolving law. Many of the cases brought under present laws are treated with hostility. Civil rights cases are often unpopular and some judges do not like to see them.

In fact, the Alliance For Justice had a report on Judge Pickering's hearing and said, ''At his hearing, Judge Pickering was asked about his record of strongly favoring defendants in employment cases. Incredibly, Judge Pickering defended his record by opining that almost no employment discrimination cases that come before the Federal courts have merit.''

Obviously, the problem is made worse when you expand the possibility to State courts, where local judges in some areas may have a civil bias. That is why the civil rights lawyers oppose the underlying bill because they do not want those kind of judges empowered to essentially allow mandatory sanctions to prevent those kind of cases from being brought in the first place.

I would hope that we would adopt the language in the substitute, but we should defeat the bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me time.

I rise today in opposition to the Democratic substitute and I will address the three or four strikes and you are out provision of the Democratic substitute. I would like to begin by pointing out what the Democratic White House hopefuls have said about this issue.

Senator JOHN EDWARDS published an article in Newsweek Magazine on December 15, 2003, where he says, ''Frivolous lawsuits waste good people's time and hurt the real victims. Lawyers who bring frivolous cases should face tough mandatory sanctions with a three strikes penalty.''

He also told the Washington Post on May 20, 2003, ''We need to prevent and punish frivolous lawsuits. Lawyers who file frivolous lawsuits should face tough mandatory sanctions. Lawyers who file three frivolous cases should be forbidden to bring another suit for the next 10 years. In other words, three strikes and you are out.''

That is not what the Democratic substitute says. The Democratic substitute only provides that on three strikes the offending attorney will be referred to a bar association and no action need be taken by the bar to discipline the attorney under the substitute. That is not what Senator EDWARDS said. Senator EDWARDS did not say, three strikes and we are going to put a letter in your personnel file. He did not say, three strikes and we will send a diplomat from the U.N. to talk to you. He did not say, three strikes and we will refer this matter to a State bar association where they will not be required to take any disciplinary action.

Could it be that when it comes to cracking down on frivolous lawsuits with a tough three strikes and you are out penalty that the White House presidential candidate were for it before they were against it? Could this be an example of flip-flopping? Do we really have, in fact, two Americas, one America where we see very tough campaign rhetoric about cracking down with mandatory sanctions and a three strikes and you are out penalty and another America where we see watered-down liberal legislation on the floor of Congress?

I think there should be one America, one America where we prevent and punish frivolous lawsuits, not just with words but with actions. I urge my colleagues to vote no on this Democrat substitute.

Mr. TURNER of Texas. Mr. Speaker, how much time remains on each side?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas (Mr. TURNER) has 6 minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 7½ minutes remaining.

Mr. TURNER of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, we do have an honest debate and an honest difference of opinion between the two parties here and it is rather stark.

Democrats believe that if a Japanese car manufactured in Japan, the brakes fail and injured you or your family and it is through negligence of the manufacturer, you ought to be able to have redress in an American court.

The Republicans want to outsource that to the Japanese courts and make you fly to Tokyo to file your lawsuit.

If a German car blows up and burns you and your family to a crisp, Democrats believe you ought to be able to go to the American judicial system and have relief. Republicans believe you should outsource your claims to the German courts. But it gets worse than that.

If a French car fails and injures your family, Democrats believe you should go to an American court and get American justice. Republicans believe you can outsource that even to the French. We do not even have french fries in our cafeteria any more, but you would be happy to send Americans to the French judicial system.

Now, the gentleman from Texas (Mr. SMITH) took issue with what I was saying about this claim, and I want to explain to you why this is.

First, I want to tell you that the Congressional Research Service, the bipartisan, nonpartisan referee of these matters, agrees with exactly what I have said when they said, ''Consequently it would appear that in certain circumstances a United States citizen or resident injured in this country would not have a judicial forum in the United States in which to seek relief.''

The jury is closed and out. The verdict is in. Your policies have outsourced a lot of jobs, but we do not understand why you want to outsource judicial activity for American citizens. Now, why is that?

It is because there is an error apparently in drafting. I do not know if you really intended this but this is what you accomplished, and the reason is even though the statute, and excuse me if I am technical for a moment but this is an important issue. It is Americans' judicial rights. Even where the statute suggests on its face that it would allow an American to sue in any one of three places, where you live or where you are hurt or where the principal place of the business is that hurt you, there is a constitutional principle that says if that corporation does not have a minimal contact where you live or where the injury occurs you cannot sue under the United States Constitution in either one of those circumstances.

That is why the Congressional Research Service, the bipartisan or nonpartisan Congressional Research Service, has concluded that the Republican bill wants to outsource our judicial system to the German, French and Japanese judicial systems. That makes no sense whatsoever, and, frankly, I would invite a response to this as to why you would want to do that.

The Japanese, they build some okay cars, not as good as American cars of course, but their judicial system is not one that we should have to be exposed to in America. Americans should have access to the American judicial system. We should pass this substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, we have debated this issue extensively and the venue for these types of personal injury cases are, one, the district where the plaintiff resides; two, the district where the injury occurred; or three, where the principal place of business of the defendant is located. Any one of these three criteria would trigger the venue.

Now, it is elemental under the corporation law of all 50 States that if a corporation that is incorporated elsewhere and that includes in any one of the other 49 States or in a foreign country, wants to do business in a State, it has to get a certificate of authority and appoint an agent for the service of process. And that is what is done with practically every multinational corporation or interstate corporation that does bills in the United States.

If they do not do that, then they do not have limited liability protection of the corporation law that applies. So the entire argument that is made by the gentleman from Washington (Mr. INSLEE) and the gentleman from Texas (Mr. TURNER) is a complete red herring.

Now, the two gentlemen have quoted extensively from a Congressional Research Service memorandum that was dated today. And it begins, ''This rushed memorandum discusses this issue.'' Well, the CRS is wrong upon occasion. And in yesterday's extension of remarks in the CONGRESSIONAL RECORD, I inserted into the RECORD correspondence that indicated that a similar rushed memorandum of the Congressional Research Service on the Marriage Protection Act was erroneous in nature. Wrong once, maybe wrong again.

Mr. Speaker, I reserve the balance of my time.

Mr. TURNER of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I have tremendous respect for the chairman but

in this case the Congressional Research Service is right. Here is where they are right. It is a constitutional principle that a court in Washington, for instance, does not have jurisdiction over a Japanese corporation if they do not have minimal contact with Washington; for instance, if they do not have a retail outlet in Washington. So if a Washington resident is injured by a Japanese car, and they have got an enormous retail outlet down in California but their principal place of business, which is the language you chose in this statute, is in Tokyo, you are out of luck as an American. And I am betting on CRS on this one.

Mr. TURNER of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I am prepared to close if the gentleman from Texas will yield back.

Mr. TURNER of Texas. Mr. Speaker, do I close or does the chairman close?

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) has the right to close.

Mr. TURNER of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say the language regarding the establishment of the forum is very clear in the Republican bill as the gentleman from Washington (Mr. INSLEE) pointed out. It says the suit should be filed where the defendant has its principal place of business.

Now, the distinguished chairman says, well, the law has established that you can sue where somebody is registered to do business and all these foreign corporations have to register to do business.

That is not what the language offered in the Republican bill says. It does not say you can sue a foreign corporation in States where it is registered to do business. It says where its principal place of business is located, and many foreign corporations have no principal place.

I would suggest to the gentleman who offered up the quote of Senator EDWARDS, we agree with Senator EDWARDS. We should ban frivolous lawsuits, and the bill that we have offered does it more forcefully and effectively than the Republican bill does. At the end of the third strike under the Republican bill you can be barred in practicing law in that court. You are suspended. Under our bill, the third strike, you are referred to your State bar association for disciplinary proceedings, to include possible disbarment.

Now, under your bill a lawyer from New York can come down to east Texas and file a lawsuit and if it is frivolous then he gets barred from ever practicing law in the Eastern District of Texas again.

What good is that going to do for a New York lawyer who may never come back to east Texas anyway? What good will it do to say you cannot come to east Texas? Even if he has to come back he can send a law partner and let him file the frivolous lawsuit again.

If you want to get a lawyer's attention, you refer them to the State disciplinary board that governs their right to practice law in that State.

□ 1430

I practiced law for many years, and anytime a lawyer gets referred to the State bar association for disciplinary action, it is a serious thing. If a lawyer continues to file frivolous lawsuits, they should be disbarred; and then we would not have to worry about them running to another court to file another frivolous lawsuit where they had not already filed one before. They would not be practicing law.

So I would suggest, if my colleagues really want to get tough on frivolous lawsuits, they will support the Democratic substitute, and if they want to be sure that an American citizen who is injured in America has the right to sue a foreign corporation that was the perpetrator of a tortious act, they better vote against the Republican bill and vote for the substitute.

I know the gentleman from Wisconsin (Mr. SENSENBRENNER) did not intend for that to be the effect, but that is the effect of the language that he has offered up today; and I would suggest that any Member on either side of the aisle would be well advised to vote against his bill to ensure that that does not occur to an American citizen who would be denied the right to file a lawsuit against a foreign corporation.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, the JOHN KERRY for President campaign has endorsed national legislation in which ''lawyers who file frivolous cases would face tough, mandatory sanctions, including a 'three strikes and you're out' provision that forbids lawyers who file three frivolous cases from bringing another suit for the next 10 years.''

Unfortunately, the Democratic substitute did not listen to what the Kerry campaign said and does not forbid lawyers who file three or more frivolous lawsuits from bringing future lawsuits. The substitute only provides that on three strikes the offending attorney will be referred to a bar association, and no action need be taken by the bar to discipline the lawyer.

The base bill, H.R. 4571, on the other hand, currently provides that an attorney who files frivolous lawsuits will be suspended for at least a year and perhaps much longer if the court deems it appropriate.

I would ask all Members to reject the Democratic substitute. This quote that I have given from the Kerry for President campaign and those that the gentleman from Florida (Mr. KELLER) has quoted of Senator EDWARDS in Newsweek magazine of last December, the Republican bill has got the type of bipartisan support that is needed to deal with this problem.

I would urge a ''no'' vote on the substitute and passage of the base bill.

Mr. DELAHUNT. Mr. Speaker, I am profoundly concerned about the erosion of the independence and statehood role in our judicial system. This bill is just another attack on access to the courts, and the latest attempt to override existing State laws. At this rate, we will have a justice system available only to corporate America. Litigation costs already make the courts unavailable for the average person and small business. This bill takes our country further in the wrong direction.

This bill will not ''take back the courts'' for plaintiffs. To the contrary, Congress continues to block access to justice. Imagine a system that leaves the tobacco industry unchecked. Imagine the number of unnecessary deaths if the trial bar could not keep unsafe tires off our cars. Or a justice system that fails to uncover contamination of public water supplies. We need the private sector. The trial bar plays an important role in the protection of American consumers. Yet, I dare say, we are going in the wrong direction.

In another all-too-familiar pattern for this Congress, this bill is another court-stripping measure limiting judicial discretion. From civil rights claims to constitutional challenges, this Congress strips courts of their ability to hear cases. Congress—not a judge sitting in a courtroom—wants to decide if a case is meritorious. Congress—not a judge—will establish inflexible guidelines and impose mandatory sanctions for lawyers. Congress is trying to micromanage the judicial system as well as state judiciaries.

We talk a lot in this Chamber about respecting States' rights. Yet, this bill represents an unprecedented invasion into the traditional jurisdiction of State courts. This unwarranted intrusion into States' rights is wrong. States should be able to set their own rules for the game, including those governing the professional conduct of lawyers. Let's not waste any more time undermining the principles of federalism on a piecemeal basis. Why not simply abolish the 10th Amendment? The bill's sponsors claim an agenda of reform—this is not reform. This is about reeling in the wrong direction.

For all these reasons, I urge my colleagues to reject H.R. 4571 and support the Democratic substitute offered by my colleague from Texas.

The SPEAKER pro tempore (Mr. LAHOOD). All time for debate has expired.

Pursuant to House Resolution 766, the previous question is ordered on the bill, as amended, and on the further amendment by the gentleman from Texas (Mr. TURNER).

The question is on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. TURNER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. TURNER of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 177, nays 226, not voting 30, as follows:

[Roll No. 448]

YEAS—177

Abercrombie	Harman	Neal (MA)
Baca	Herseth	Oberstar
Baird	Hill	Obey
Baldwin	Hinchey	Olver
Becerra	Hinojosa	Ortiz
Bell	Hoeffel	Pallone
Berkley	Holden	Pascrell
Berry	Holt	Pastor
Bishop (GA)	Honda	Payne
Bishop (NY)	Hooley (OR)	Pelosi
Blumenauer	Hoyer	Peterson (MN)
Boswell	Inslee	Pomeroy
Boucher	Israel	Price (NC)
Boyd	Jackson (IL)	Rahall
Brady (PA)	Jackson-Lee (TX)	Rangel
Brown (OH)	Jefferson	Reyes
Brown, Corrine	John	Rodriguez
Butterfield	Johnson (IL)	Ross
Capps	Jones (OH)	Rothman
Capuano	Kanjorski	Roybal-Allard
Cardin	Kaptur	Ruppersberger
Cardoza	Kildee	Rush
Carson (IN)	Kilpatrick	Ryan (OH)
Carson (OK)	Kind	Sabo
Case	Kucinich	Sánchez, Linda T.
Chandler	Lampson	Sanchez, Loretta
Clay	Lantos	Sanders
Clyburn	Larsen (WA)	Sandlin
Cooper	Larson (CT)	Schakowsky
Cummings	Lee	Schiff
Davis (AL)	Levin	Scott (GA)
Davis (CA)	Lewis (GA)	Scott (VA)
Davis (FL)	Lipinski	Sherman
Davis (IL)	Lowey	Skelton
DeFazio	Lynch	Smith (WA)
DeGette	Majette	Solis
Delahunt	Maloney	Spratt
DeLauro	Matsui	Stark
Deutsch	McCarthy (MO)	Strickland
Dicks	McCarthy (NY)	Stupak
Dingell	McCollum	Tanner
Dooley (CA)	McDermott	Tauscher
Doyle	McGovern	Thompson (CA)
Duncan	McIntyre	Thompson (MS)
Edwards	McNulty	Tierney
Emanuel	Meehan	Turner (TX)
Eshoo	Meek (FL)	Udall (CO)
Etheridge	Meeks (NY)	Udall (NM)
Evans	Menendez	Van Hollen
Farr	Michaud	Visclosky
Fattah	Millender-McDonald	Waters
Filner	Miller (NC)	Watson
Ford	Miller, George	Watt
Frank (MA)	Moore	Waxman
Frost	Moran (VA)	Weiner
Gonzalez	Murtha	Wexler
Gordon	Nadler	Woolsey
Green (TX)	Napolitano	Wu
Grijalva	Neal (MA)	Wynn
Gutierrez		

NAYS—226

Aderholt	Capito	Flake
Akin	Carter	Foley
Alexander	Castle	Forbes
Allen	Chabot	Fossella
Andrews	Chocola	Franks (AZ)
Bachus	Coble	Frelinghuysen
Baker	Cole	Gallegly
Barrett (SC)	Collins	Garrett (NJ)
Bartlett (MD)	Costello	Gerlach
Barton (TX)	Cox	Gibbons
Bass	Cramer	Gilchrest
Beauprez	Crane	Gillmor
Berman	Crenshaw	Gingrey
Biggert	Cubin	Goode
Bilirakis	Culberson	Goodlatte
Bishop (UT)	Cunningham	Granger
Blunt	Davis (TN)	Graves
Boehner	Davis, Jo Ann	Green (WI)
Bonilla	Davis, Tom	Gutknecht
Bono	Deal (GA)	Hall
Boozman	DeLay	Harris
Bradley (NH)	DeMint	Hart
Brady (TX)	Diaz-Balart, L.	Hastings (WA)
Brown (SC)	Diaz-Balart, M.	Hayes
Brown-Waite, Ginny	Doggett	Hayworth
Burgess	Doolittle	Hefley
Burns	Dreier	Hensarling
Burr	Dunn	Herger
Burton (IN)	Ehlers	Hobson
Buyer	Emerson	Hoekstra
Calvert	English	Hostettler
Camp	Everett	Houghton
Cantor	Feeney	Hulshof
	Ferguson	Hunter
	Flake	Myrick
	Foley	Nethercutt
	Forbes	Neugebauer
	Fossella	Ney
	Franks (AZ)	Northup
	Frelinghuysen	Norwood
	Gallegly	Nunes
	Garrett (NJ)	Nussle
	Gerlach	Osborne
	Gibbons	Ose
	Gilchrest	Otter
	Gillmor	Oxley
	Gingrey	Paul
	Goode	Pearce
	Goodlatte	Pence
	Granger	Peterson (PA)
	Graves	Petri
	Green (WI)	Pickering
	Gutknecht	Pitts
	Hall	Platts
	Harris	Pombo
	Hart	Porter
	Hastings (WA)	Portman
	Hayes	Pryce (OH)
	Hayworth	Putnam
	Hefley	Quinn
	Hensarling	Ramstad
	Herger	Regula
	Hobson	Rehberg
	Hoekstra	Renzi
	Hostettler	Reynolds
	Houghton	Rogers (AL)
	Hulshof	Rogers (KY)
	Hunter	Rogers (MI)
	Hyde	Rohrabacher
	Isakson	Ros-Lehtinen
	Issa	Royce
	Jenkins	Ryan (WI)
	Johnson (CT)	Ryun (KS)
	Johnson, Sam	Saxton
	Jones (NC)	Sensenbrenner
	Keller	Sessions
	Kelly	Shadegg
	Kennedy (MN)	Shaw
	King (IA)	Shays
	King (NY)	Sherwood
	Kingston	Shimkus
	Kirk	Shuster
	Kline	Simmons
	Knollenberg	Simpson
	Kolbe	Smith (MI)
	LaHood	Smith (NJ)
	Latham	Smith (TX)
	LaTourette	Snyder
	Leach	Souder
	Lewis (CA)	Stearns
	Lewis (KY)	Stenholm
	Linder	Sullivan
	LoBiondo	Sweeney
	Lofgren	Tancredo
	Lucas (KY)	Taylor (MS)
	Lucas (OK)	Taylor (NC)
	Manzullo	Terry
	Markey	Thomas
	Matheson	Thornberry
	McCotter	Tiahrt
	McCrery	Tiberi
	McHugh	Toomey
	McKeon	Turner (OH)
	Mica	Upton
	Miller (MI)	Vitter
	Miller, Gary	Walden (OR)
	Mollohan	Walsh
	Moran (KS)	Wamp
	Murphy	Weldon (FL)
	Musgrave	Weldon (PA)
		Weller
		Wicker
		Wilson (NM)
		Wilson (SC)
		Wolf
		Young (AK)
		Young (FL)

NOT VOTING—30

Ackerman	Goss	Miller (FL)
Ballenger	Greenwood	Owens
Blackburn	Hastings (FL)	Radanovich
Boehlert	Istook	Schrock
Bonner	Johnson, E. B.	Serrano
Cannon	Kennedy (RI)	Slaughter
Conyers	Kleczka	Tauzin
Crowley	Langevin	Towns
Engel	Marshall	Velázquez
Gephardt	McInnis	Whitfield

□ 1457

Mrs. KELLY, Mr. GINGREY and Mr. GARRETT of New Jersey changed their vote from ''yea'' to ''nay.''

Messrs. CARDOZA, DINGELL and CUMMINGS changed their vote from ''nay'' to ''yea.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. DELAURO. I am opposed to the bill in its current form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Ms. DeLauro moves to recommit the bill H.R. 4571 to the Committee on the Judiciary with instructions to report the same back to the House forth with with the following amendment:

Section 4, insert at the end the following new subsection:

(e) NOT APPLICABLE TO BENEDICT ARNOLD CORPORATIONS.—

(1) IN GENERAL.—To the extent the defendant is a Benedict Arnold corporation, this section does not apply, notwithstanding subsection (d).

(2) DEFINITIONS.—For purposes of this subsection:

(A) The term ''Benedict Arnold corporation'' means a foreign corporation that acquires a domestic corporation in a corporate repatriation transaction.

(B) The term ''corporate repatriation transaction'' means any transaction in which—

(i) a foreign corporation acquires substantially all of the properties held by a domestic corporation;

(ii) shareholders of the domestic corporation, upon such acquisition, are the beneficial owners of securities in the foreign corporation that are entitled to 50 percent or more of the votes on any issue requiring shareholder approval; and

(iii) the foreign corporation does not have substantial business activities (when compared to the total business activities of the corporate affiliated group) in the foreign country in which the foreign corporation is organized.

Ms. DELAURO (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Connecticut (Ms. DELAURO) is recognized for 5 minutes in support of her motion to recommit.

Ms. DELAURO. Mr. Speaker, this motion to recommit is designed to help address the problem of domestic corporations reincorporating abroad for the express purpose of avoiding new U.S. taxes and now new legal liability.

As we fight terrorism at home and abroad, when we have hundreds of thousands of troops in harm's way and are trying to find the resources to equip our first responders and ensure the safety of our ports and air transit, the last thing we should be doing is passing legislation that helps what are essentially corporate tax dodgers.

With increasing frequency, companies are setting up shell corporations in places like Bermuda while continuing to be owned by U.S. shareholders and doing business in the United States. The only difference is that this new so-called foreign company escapes substantial tax liability. What these companies have done is a slap in the face of every company which has chosen to stay in America and of every citizen who faithfully pays their taxes.

In my State of Connecticut, Stanley Works once considered incorporating in Bermuda to keep up with their competitors who had already moved overseas. But they changed their mind. They did the right thing.

But the bill before us provides a litigation and financial windfall to corporate expatriates at the expense of companies like Stanley Works. Instead of permitting claims to be filed wherever a corporation does business, or has

minimum contacts, this bill requires the suit to be brought where the defendant's principal place of business is located. Perhaps that makes some sort of sense in the abstract, but in the case of a corporate expatriate what that means is that in most cases claims could only be filed in places like Bermuda under their liability laws.

It is bad enough that these companies are essentially cheating on their taxes by arguing, rather unconvincingly, that they are not American companies. But for them to use this rationale to escape liability is outrageous. This is unfair to the victims, and unfair to the domestic company who would be forced to compete against these companies.

□ 1500

The Congressional Research Service has analyzed this bill and wrote: ''In certain circumstances a United States citizen injured in this country would not have the judicial forum in the United States in which to seek relief.'' In other words, in certain cases, American citizens would have no judicial recourse whatsoever.

These are American companies flouting American tax law. They do business here in the United States, and they should be subject to our laws, period. So my motion to recommit amends the underlying bill to say the new limitations on jurisdiction and venue do not apply to a corporate expatriate company. This is a modest, commonsense change to address the irresponsible actions of a handful of companies. It is time for these companies to live up to their obligations as American corporate citizens. I urge my colleagues to vote ''yes'' on this motion to recommit.

Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, we have a delicious debate before us because we Democrats believe if Stanley Tool tries to avoid taxes by moving to Bermuda and their tool blows up and puts out your eye, an American ought to have access to the American judicial system in front of an American jury.

The Republicans want to outsource the job to Bermuda. If a corporation goes to France and a product blows up and hurts you, we Democrats believe Americans ought to have access to the Americans judicial system. The Republicans want to outsource the jury system to Paris. We do not even have French fries in our cafeteria anymore, and the other side is outsourcing our jobs to France. The same applies to Germany and every other country. The other side has outsourced enough jobs; we are not going to allow the outsourcing of our jury system, too. Support this motion.

Ms. DELAURO. Mr. Speaker, I urge my colleagues to support this motion to recommit, and I want to thank the gentlewoman from Texas (Ms. JACKSON-LEE), who is a member of the Committee on the Judiciary who was going to offer this motion in committee.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4571.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, the real outsourcing motion is the one which has been made by the gentlewoman from Connecticut (Ms. DELAURO). If this motion is adopted and this bill is enacted into law, it will cost American jobs. Anytime the cost of doing business in the United States goes up, the number of Americans with jobs will go down. This motion to recommit would increase the cost of doing business in this country and in the process lose American jobs.

I do not want to hear anybody who has argued in favor of this motion ever to come back and complain about the outsourcing of American jobs to foreign countries if this motion passes because this is the type of thing that will absolutely do that.

The motion to recommit defines the covered entities as those that have substantial business activities in this country, and hurting substantial business in American substantially hurts American workers. Stand up for American workers; vote down this motion to recommit. Stop the outsourcing of jobs by last-minute motions made on the floor with red herring arguments. Vote ''no'' on the motion to recommit.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. DELAURO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum period of time for any electronic vote on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 196, noes 211, not voting 26, as follows:

[Roll No. 449]

AYES—196

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Cooper
Costello
Cramer
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Duncan
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Goode
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Northup
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sherman
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOES—211

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blunt
Boehner
Bonilla
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht

Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—26

Ackerman
Ballenger
Blackburn
Boehlert
Bonner
Cannon
Conyers
Crowley
Engel
Gephardt
Hastings (FL)
Johnson, E. B.
Kennedy (RI)
Kleczka
Langevin
Marshall
McInnis
Miller (FL)
Owens
Schrock
Serrano
Slaughter
Tauzin
Towns
Velázquez
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised that 2 minutes remain to vote.

□ 1525

Mr. SMITH of New Jersey changed his vote from ''aye'' to ''no.''

Mr. CARSON of Oklahoma, Mr. TAYLOR of North Carolina and Mrs. NORTHUP changed their vote from ''no'' to ''aye.''

So the motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 229, nays 174, not voting 30, as follows:

[Roll No. 450]

YEAS—229

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blunt
Boehner
Bonilla
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, M.
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—174

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carson (IN)
Chandler
Clay
Clyburn
Cooper
Costello
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind
King (NY)
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Schakowsky
Schiff
Scott (VA)
Sherman
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—30

Ackerman
Ballenger
Blackburn
Boehlert
Bonner
Cannon
Conyers
Crowley
Engel
Frelinghuysen
Gephardt
Gordon
Hastings (FL)
John
Johnson, E. B.
Kennedy (RI)
Kleczka
Langevin
Marshall
McInnis
Miller (FL)
Owens
Sanders
Schrock
Serrano
Slaughter
Tauzin
Towns
Velázquez
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain to vote.

□ 1535

Mr. SANDLIN and Mr. BISHOP of New York changed their vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KENNEDY of Rhode Island. Mr. Speaker, on the evening of September 13 and the morning of September 14, I was attending the funeral services of the Richard Langevin, the father of our colleague Congressman JAMES LANGEVIN, and was unable to vote on rollcall votes Nos. 441–450.

I respectfully request the opportunity to record my position on rollcall votes Nos. 441, 442, 443, 444, 445, 446, 447, 448, 449, 450.

It was my intention to vote ''aye'' on rollcall vote No. 441, ''aye'' on rollcall vote No. 442, ''aye'' on rollcall vote No. 443, ''no'' on rollcall vote No. 444, ''no'' on rollcall vote No. 445, ''aye'' on rollcall vote No. 446, ''aye'' on rollcall vote No. 447, ''aye'' on rollcall vote No. 448, ''aye'' on rollcall vote No. 449, and ''no'' on rollcall vote No. 450.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5025, TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–686) on the resolution (H. Res. 770) providing for consideration of the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 5025, TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 770 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 770

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SIMPSON). The question is, Will the House now consider House Resolution 770.

The question was taken; and (two thirds having voted in favor thereof) the House agreed to consider House Resolution 770.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. REYNOLDS asked and was given permission to revise and extend his remarks.)

Mr. REYNOLDS. Mr. Speaker, House Resolution 770 is an open rule that provides for consideration of H.R. 5025, the Departments of Transportation, Treasury, and Independent Agencies Appropriations Act for fiscal year ending September 30, 2005. The rule waives all points of order against consideration of the bill.

The rule also provides for 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on Appropriations. The rule provides that the bill shall be considered for amendment by paragraph. Further, the rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the CONGRESSIONAL RECORD. And, finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, the Committee on Appropriations had an extremely difficult task this year in funding the many needs of our Nation. They answered the call by diligently working to produce a bill that deals with our needs in a whole host of areas, including the Department of Transportation, the Department of the Treasury, along with the Postal Service and the Executive Office of the President.

In total the bill provides $89.8 in total budgetary resources. This funding represents the commitment of this Congress to provide the necessary resources for programs and projects across the Nation. The bill provides close to $35 billion in highway spending, a boost of $1 billion over last year's guarantee. This amount fully funds the House-passed authorization level and will go a long ways towards constructing and improving highways and roads in our communities.

Transit spending of over $7 billion includes over $1 billion for new fixed guideway systems. Amtrak is provided with $900 million, which is equal to the President's request. Included in this funding is $500 million for capital improvements and $60 million to ensure that important commuter operations continue.

Mr. Speaker, the underlying bill also provides significant support for the Federal Aviation Administration with a total of $14 billion. This includes $3.5 billion for the Airport Improvement Program and $102 million for Essential Air Service. The total FAA funding also includes $9 million above the budget request in order to hire and train additional traffic controllers.

From highways and transit programs to airports and the FAA, the underlying bill ensures that we have a reliable and stable transportation infrastructure. Mr. Speaker, the underlying bill also gives support to the Treasury Department, bringing their appropriation to over $11 billion. Included under the General Services Administration is over $90 million in funding for new border stations. This will not only enhance protection of our borders but also improve commercial efficiency. The bill also includes an increase of $2.8 million for the Financial Crimes Enforcement Network, which is tasked with implementing the Treasury Department's anti-money laundering regulations.

Also included in the bill is considerable funding for support of national anti-drug efforts. The Office of National Drug Control Policy is provided with just over $468 million. Within that funding is assistance to the National Youth Anti-Drug Media Campaign and full funding for the Drug-Free Communities program. This funding is essential to keep our children safe from drugs through education and community support.

Mr. Speaker, there are many more vital programs funded in the appropriations bill that I have not mentioned but that I know will be highlighted in detail during our debate later today.

I would like to commend the chairman and ranking member of both the full Committee on Appropriations and the subcommittee for their hard work on this extensive bill.

Mr. Speaker, I urge my colleagues to support the bill and the underlying rule.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks.)

Mr. MCGOVERN. Mr. Speaker, I want to thank the gentleman from New York (Mr. REYNOLDS) for yielding me the customary 30 minutes.

Mr. Speaker, sadly, the best that can be said of this fiscal year 2005 Transportation, Treasury, and Independent Agencies Appropriations bill is that it represents a valiant effort to fund the important agencies it covers despite a grossly deficient budget allocation. The subcommittee's fiscal year 2005 budget allocation is $389 million less than the President's request and $2 billion than the level of budget authority provided in the fiscal year 2004 Omnibus Appropriations bill.

So, therefore, I want to be begin by thanking the gentleman from Oklahoma (Mr. ISTOOK), subcommittee chairman, and the gentleman from Massachusetts (Mr. OLVER), ranking member, for their hard work and diligence in bringing this bill forward under very difficult and trying circumstances. The gentleman from Florida (Chairman YOUNG) and the gentleman from Wisconsin (Mr. OBEY), ranking member, also deserves credit for helping to craft a bipartisan bill that attempts to spread the pain of this pitifully inadequate budget allocation equally.

That being said, the fact remains that this appropriations bill does not meet the very real and growing needs of our Nation in a number of areas, particularly with respect to our deteriorating transportation infrastructure. And, Mr. Speaker, that simple fact is especially hard to reconcile with this administration's reckless fiscal policies of tax cuts for the wealthy.

This fiscal year 2005 Transportation, Treasury Appropriations bill provides $89.9 billion in total funding, an increase of $1 billion over the President's request and $495 million below the fiscal year 2004 level. Discretionary spending is capped at $25.4 billion, which is $2.9 billion below the fiscal year 2004 level.

Among the more glaring shortcomings of this appropriations bill is the continued, conscious and deliberate underfunding of Amtrak. This recurring game of brinksmanship with our national passenger rail system has simply got to stop. During their brief tenure, David Gunn and his management team have made significant improvements in the operational efficiency of Amtrak by cutting waste and reducing expenses while increasing ridership and raising revenues. However, despite these impressive gains, there still exists a massive $6 billion backlog of critical capital improvements, created in large part by years of deferred maintenance along the Northeast Corridor, which absolutely must be addressed.

No less than the Inspector General has stated that Amtrak needs $1.5 billion annually just for its capital needs. Mr. Speaker, this capital backlog is not imagined. It is very real and we need to provide sufficient funding to address it.

The $900 million provided for Amtrak in this appropriations bill is half of the $1.8 billion Amtrak says it needs next fiscal year to keep the system operating reliably and to begin to address its capital backlog. If this $900 million in funding is allowed to stand, Amtrak will likely cease operations in mid-2005. If my colleagues doubt that, perhaps they should update their resume and apply for Mr. Gunn's job. Otherwise, do not be surprised when the trains stop running in the spring of next year and no private rail carrier steps up and offers to operate passenger service without a public subsidy. My colleagues should consider themselves warned.

Mr. Speaker, the underfunding of Amtrak in this appropriations bill is compounded by a reduction in spending on new starts projects within the Federal Transit Administration's budget. At a time when our cities and towns are choking from congestion and the transportation reauthorization bill is mired in election year politics, we can scarcely afford to underfund projects which promote public transit. I have cities in my congressional district like Fall River in Massachusetts, which has 92,000 residents and is located only 50 miles south of Boston but has no access to commuter rail service. In these tough fiscal times, the FTA's new start program represents the only hope of expanding commuter rail to cities like Fall River. We should be increasing funding for new starts, not reducing it.

Equally as troubling to me is the dramatic decrease in funding for Federal Aviation Administration facilities and equipment. This fiscal year 2005 appropriations bill provides $392 million less for FAA facilities and equipment than the fiscal year 2004 enacted level. As the commercial airline industry continues to recover from the terrorist attacks of 9/11 and consumer confidence returns, we must not jeopardize the safety and the security of America's airways by short-changing the agency's staffing equipment or facilities.

□ 1545

In the Committee on Rules earlier today, Mr. Speaker, several amendments were offered to the rule, motions that would have provided protections for important amendments so that they could be debated and voted on right here on the House floor today. If the Committee on Rules had approved these motions, the House would have had the opportunity to debate and to vote on these amendments today. Unfortunately, as has become kind of regular order in the Committee on Rules, the Committee on Rules, on party-line votes, denied providing the necessary protections for these amendments, and they cannot be voted on today.

The first amendment brought to the Committee on Rules by the ranking member, the gentleman from Massachusetts (Mr. OLVER), would have increased funding for Amtrak by $300 million. The cost of the amendment would be paid for by a small reduction in the 2001 and 2003 tax cuts for any person making more than $1 million. This amendment would provide badly needed funds for Amtrak; and, as we all know, Amtrak desperately needs increased funds if it is to continue providing the services that all of our constituents rely on.

The second amendment would have protected from a point-of-order language already included in the bill that allows government jobs to be privatized only if such actions would save at least $10 million or 10 percent of the program's cost. The Office of Management and Budget has been working on a proposed rule that puts civilian employees at a competitive disadvantage to noncivilian employees. This language would ensure that the civilian employees have a level playing field when it comes to competition with noncivilian employees.

Additionally, it would provide that taxpayer funds are properly spent, which is simply not the case under the new OMB guidelines. In other words, by leaving this provision unprotected, this important language, originally adopted in the committee, can be struck from the bill, making it much easier to privatize important Federal jobs.

The third amendment offered in the Committee on Rules today would have protected a provision in the bill that provides a 3.5 percent COLA for Federal civilian employees. This is the same level the President proposed for members of the Armed Forces; and while all of us support our troops and we want to ensure that our troops and their families are paid what they deserve, we cannot and we must not forget about the jobs that civilian and Federal employees do each and every day. In fact, I strongly believe we should provide Federal employees with equal pay adjustments.

Beyond that, a fair pay adjustment is needed to keep pace with private sector salaries so the Federal Government can compete for quality employees in the future.

Finally, Mr. Speaker, on a special note, I want to publicly commend the gentleman from Wisconsin (Mr. OBEY) for raising the very important issue of foreign truck certification in the full committee markup of this appropriations bill. As a former member of the House Committee on Transportation and Infrastructure and the lead sponsor of the Safe Highways and Infrastructure Preservation Act, I am keenly aware of the danger bigger trucks, foreign or domestic, pose to the American driving public on our interstates and highways. I would strongly encourage Members to take this issue very, very seriously and to immediately insist on stringent safety and environmental standards for foreign trucks.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I looked over the transcript from last year and noticed how similar the debate is coming from my colleague, as the presentation was: we have to keep spending more money. There is not a district or a State or, quite frankly, a region of the country that does not feel that there is more need in transportation appropriations, whether it be this or from the trust fund; but the reality is, it becomes a time to look at working within a budget, working within the allocations.

I also want to remind my colleague that while the Committee on Rules is a traffic cop, deciding many things that comes before the Congress as it comes from committees to the floor, we have to be a little careful of just how much legislating we do on appropriations bills. I do not have to remind my colleague that there was a great deal of legislating on the appropriations bills via the amendments offered before the Committee on Rules today, thus making a decision not to make them in order, as they were not germane; and also there becomes the subject of looking at paying for some of this by raising taxes.

Now, I look at the fact that there is a tax cut on the books and it is the law of the land, and that is the rate and what people are going to pay. Every

time we want to add something by taking it from the tax cut, we are raising taxes. I think the Committee on Rules, at least on the Republican side of the aisle, did not want to get into raising taxes.

So, Mr. Speaker, this is not an easy budget. The entire 13 appropriations bills and the transportation bill is no easier than the others that we have moved before us or a few that we have to complete our work on. But the fact is, the Committee on Appropriations has worked hard. They have worked under the allocations that they had available, and we should always be on the lookout for an opportunity where we can provide assistance in transportation needs as money becomes available.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I just want to say I appreciate the gentleman's response, but I would just suggest that his priorities and the priorities of his leadership are wrong. What we are suggesting here is that we do have serious needs in this country, and the gentleman admitted it, in terms of transportation and infrastructure needs, and we need to address them. The gentleman and his party think that it is more important to give millionaires tax cuts rather than take those resources and invest it in our infrastructure so our communities can become more competitive, so that we can create more jobs. I mean, this mess we are in is wholly created by those of you who run this Congress, and it is an unfortunate situation that we find ourselves in right now.

There are communities all across this country, States all across this country, Governors all across this country, Republicans and Democrats, who are frustrated that the Republican leadership cannot get their act together and get a highway and transportation bill before both the House and the Senate that we could put on the President's desk. I think when they look at the underfunding of some very important public transportation needs, that frustration is going to continue.

So you are making choices, and I am suggesting that you are making the wrong choices.

Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Speaker, these are difficult times for our Nation. We are fighting terrorism on numerous fronts. We have commitments to keep our troops overseas, and we struggle to meet our needs here at home. Our economy needs a boost, unemployment is high, and our future budget deficits are predicted to be the highest in the history of this great Nation.

Now is not the time for Members of Congress to be voting themselves a pay raise. We need to show the American people that we are willing to make sacrifices. We need to budget, live within our means, and make careful spending decisions based on our most pressing priorities.

Mr. Speaker, let us send a signal to the American people that we recognize their struggle in today's economy. Vote ''no'' on the previous question so we can have an opportunity to block the automatic cost-of-living adjustment to Members of Congress. This vote ought to be cast in the light of day and on the record. A ''no'' vote on the previous question will allow Members to vote up or down on the cost-of-living adjustment.

If the previous question is defeated, I will offer an amendment to the rule. My amendment will block the fiscal year 2005 automatic cost-of-living pay raise for Members of Congress. Because this amendment requires a waiver, the only way to get to this issue is to defeat the previous question. Therefore, I urge Members to vote ''no'' on the previous question.

Mr. REYNOLDS. Mr. Speaker, I was listening to my colleague, the gentleman from Massachusetts (Mr. MCGOVERN). I know that he is an expert on rules and rules policy. That is, with an open rule, any Member can offer any germane amendment to change however they want this transportation and postal bill. So as we bring the rule, which is an open rule, to the body and the House makes its decisions of passing the rule, it allows us to get into the debate on the appropriations report. That certainly allows, under an open rule, any germane amendment to be offered that any Member chooses, and I know we will have many. This bill always has a tremendous amount of amendments to it.

So I look forward to the debate and the votes as they come, and I am sure there will be many where individual Members will offer amendments that they deem are important for consideration here; and if they are germane, they will be entertained by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would just simply respond to the gentleman that the Committee on Rules makes its own rules, as we have seen so clearly since the majority has taken over control of that committee. So one of the frustrations that Members of Congress have is that the only way for their issues to be heard, the only way to bring up these different points of view is to go before the Committee on Rules and to ask the Committee on Rules for protections or for waivers, which, to be honest with my colleagues, is something that has happened in the past. So I would simply say to the gentleman, that is all we want, is to be able to, in the people's House, have a good debate and to be able to bring up the issues that our constituents talk to us about.

With regard to this bill in particular, which many of us think is sadly underfunded because of some bad priorities of the people who are running this House, we would like to have the opportunity to correct that. When we go home, and I suspect when the gentleman goes home and he talks to his mayors and his town managers and to his Governor, they will tell him that there is a desperate need for additional transportation infrastructure funding. There are bridges that are collapsing in this country, there are road projects that are not being done; and the longer we put them on hold, the more expensive they are going to be. I would say also, it has a negative impact on economic development.

I would also suggest to the gentleman, since his party does not seem very interested in creating jobs, since they have a job-loss record that is on par with Herbert Hoover, that this is a way to create jobs. We might actually do something different and get up and actually pass a piece of legislation that will stimulate economic growth and create some jobs, and I think a lot more people would be happy in this country.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Again, the Committee on Rules has to sort it all out. I suppose each of us would like our own personal waiver of something that we would like to add into this appropriations bill, whether it is our favorite road, our favorite bridge, our favorite railroad station or track or some other aspect, or ports or harbors or whatever else we can stick in the bill.

The reality is that we have a budget. We have 302(b) allocations to 13 appropriations bills, and we have some tough work to do. Our appropriators on this subcommittee have done their job, and they have brought the bill here. It is now, as we consider it under an open rule on the appropriations bill, one that will come to the floor so that any Member can provide any amendment they so desire that is germane to this bill for consideration, and that becomes the process of a decision of whether 218 Members of this body decide in favor of that amendment or not.

It is not up to the Committee on Rules to sort through each and every personal agenda item that may come up through the rules hearings for deliberation. This is a fair and open rule that is before this House for decisions today and as long as it takes to complete this appropriations bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would just respectfully disagree with the gentleman, that it is the job of the Committee on Rules to go through and to analyze each and every amendment and every proposal that every Member of this House, Republican and Democrat, brings before the committee. Everybody in this Chamber should have the right to be able to go to the Committee on Rules and have

their amendment considered, be given fair consideration. All of us were elected. We represent the same number of people; all of us have the same right to be able to do that.

I would also say to the gentleman when he mentioned about the budget, to the best of my knowledge, Congress has not approved a budget yet, notwithstanding the fact that the Republican Party controls both the House and the Senate. So we are kind of operating under kind of imaginary budget caps that the Republican Party has decided to put into place. I would again say that to the extent that there is a shortfall here, it is because the gentleman and his leadership and his party have chosen to devote these resources to something else, namely, tax cuts for very wealthy people in this country.

I think that is the wrong choice. I think it would be better to invest some of that money in a strong infrastructure. I think it would be better for our economy, and it would create more jobs.

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

□ 1600

Mr. OBEY. Mr. Speaker, I intend to vote against the previous question on the rule. I intend to vote against the rule. And if the House does what I think it is going to do on this bill in the next 2 days, I intend to vote against the bill as well.

The gentleman from New York (Mr. REYNOLDS) indicates that the Committee on Appropriations has done its job. That is correct. But what is happening now, the Committee on Appropriations is trying even though we are at the end of the fiscal year and even though many of the programs that we are supposed to appropriate money for have not yet been authorized because of failure of the authorization process, the Committee on Appropriations is going to see its product shredded because of the inability of the authorizing committee and the White House and the majority leadership in both the Senate and the House to get together on a reasonable compromise, which hopefully would also include Members of the minority.

And so now what is happening is that a rule is being produced which is theoretically an open rule, but which in reality will result in about 80 percent of this bill being shredded. The carcass of this bill will then go to conference, and in conference the Committee on Appropriations will be asked to reconstruct the legislation which will have been shredded on the House floor. No individual member will have any input into what the final product that comes out of conference will be.

The reason we have a Committee on Rules is to avoid this kind of chaos. The reason we have a Committee on Rules is to bring adult supervision to the House floor from time to time, and the fact is that the Committee on Rules is being derelict in its duty and the House leadership is being derelict in its duty when it does not step in to resolve what Dick Bolling used to call these dung hill fights between different committees. Dick Bolling used to bemoan the fact that Members of this House seemed to think that they had a greater obligation to their committee than they do to the House as a whole. They do not. At least they should not.

We were not elected to be members of the Committee on Appropriations or members of the Committee on Transportation and Infrastructure or members of the Committee on Rules. We were elected to be Members of the House of Representatives, and it is our job to sometimes defend the House against the arbitrary actions of individual committees. And when the Committee on Rules does not step in to guarantee that, then the result is chaos.

That is what we are going to see here today. We are going to have three different factions of the majority party each trying to impose its own will by taking advantage of the fact that the Committee on Rules did not do its job. So in protest, I mean, we only have about 2 weeks before the end of the fiscal year. We only have passed one appropriations bill. And in my view it is this lack of leadership which has resulted in this miserable record of performance or rather miserable record of nonperformance on the part of the House of Representatives on appropriations issues.

The Committee on Appropriations on both sides of the aisle has worked and worked and worked to try to overcome an inability to perform on the part of other committees, and yet the product that the committee has tried to produce is going to be shredded today because the leadership did not pull people in and knock their heads together to get them to act like adults. That is nothing new around here, but I wish to God it would not be routine.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all I want to make sure that there was no question in my comments earlier as the gentleman from Massachusetts (Mr. MCGOVERN) brought forth some thought.

I believe it is for the Committee on Rules to listen to each and every Member on its amendments. What I said was that the Committee on Rules, that it was not responsible and necessary to give every member a waiver on everything they wanted as they came up there, which you well know.

A couple of things that become important also while I listen to both the ranking member of the Committee on Appropriations as well as the minority member managing this rule, and that is that appropriations has a very unique aspect here. They can move privileged measures right to the floor without any rule. Now, I know the ranking member of the Committee on Appropriations knows that because last year the Committee on Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies came through exactly that way, as a privileged measure that was regular order and never had a rule, and it came right to the floor as they have that opportunity here in the House of Representatives.

In fact, as we look at this bill, this bill started with the aspect that the Committee on Appropriations was going to move it to the floor as a privileged measure that would not require a rule at all. And it was also, as I understand, that the Committee on Appropriations did not want to accommodate waivers, they did not want waivers on this bill, so they elected that the Committee on Rules would come to play, make its decisions and bring the bill to the floor without those waivers under an open rule where every single Member of this body can introduce any germane amendment he or she so desires. And that is what will happen today if this rule is passed and we are able to move on to the appropriations matter.

When we look at the discussion, and there is a debate. I remember when we had a discussion saying I want to add back all this stuff and I want to raise taxes to do it, as the minority ranking member of the Committee on Appropriations brought a measure before this House. I respect his ability to bring that amendment. I also think we were fortunate that it was defeated so we did not raise taxes on the American people. But the fact is there was the opportunity to have that vote after the debate and the decision was not to raise taxes.

I accept those in the minority who want to raise taxes to spend. It is a fact of life over some of the policies that this body had when the other party was in power. But the fact is that we are holding the line on spending. We are making difficult choices. And today as we move this appropriations bill to the floor, it gives everyone ample opportunity to amend it with germane amendments how they see fit.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. I found the gentleman's response interesting, Mr. Speaker. He starts to talk about taxes. This bill and my position on it has nothing whatsoever to do with taxes. It has everything to do with the fact that the leadership on your side of the aisle will not meet their responsibility in choosing which individual Members they are going to discipline in order to bring a coherent piece of legislation to the floor. This has nothing to do with tax levels.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I must recall it has only been about a half hour when I listened to my colleague, the gentleman from Massachusetts (Mr. MCGOVERN), who

brought his viewpoint to the floor that said there is not enough money in this thing because there was a tax cut and, therefore, we have got to increase taxes in order to have more money to spend. And so while I did not necessarily hear that from the gentleman today, the ranking member led the debate on increasing taxes so we could put more stuff back into programs that you put forth in a line by line fashion that you wanted back from money.

That was not today but you certainly brought that forth and it was something that you very much wanted to bring forth and we have accommodated that opportunity. But today the Member managing this rule on the minority side did bring forth the fact that he did not see the goals of what he wanted to see in a transportation bill because the tax cut did not allow him to have that.

Again, I want to remind my colleagues that we have ample opportunity for every Member to offer whatever amendment they want that is germane to this bill; and I am sure we will see many of those in the forthcoming hours on this Committee on Appropriations item.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me clarify to the gentleman, the point I was trying to make is your priorities are all messed up. The bottom line is there is a real need out there, all across this country, even in your State, for more transportation funding, more public transportation funding, more support. It is essential for economic growth. It is essential for job creation and you are short-changing it, and those are your priorities, and I think they are messed up.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, I thank my friend for yielding me time.

I wanted to set the record straight, Mr. Speaker, on this discussion of taxes that we keep hearing about, my friend from Wisconsin, when he raised taxes. And he can correct me if I am wrong about this, but every time he has attempted to make an amendment in order on these appropriations bills, in committee and here, and when he was permitted to have an order, a vote that would have amended the budget resolution, every time, if I am not mistaken, the bottom 99 percent of American families would not have had their taxes raised at all.

Mr. Speaker, I ask the gentleman from Wisconsin (Mr. OBEY) if that is correct.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, that is absolutely correct. The majority knows it but they try to hide it at every opportunity because they do not have the guts to take the issue on directly.

Mr. ANDREWS. Reclaiming my time, it is also my understanding that to the extent that we have talked about restoring the tax rates that were in effect in 2001, a tax code which by the way created 22 million new jobs in the last decade, that the gentleman from Wisconsin's (Mr. OBEY) proposal simply reclaimed a portion of the tax cut that people in that top 1 percent would have received.

In other words, even under the gentleman from Wisconsin's (Mr. OBEY) proposals, they would get a tax cut because the amount reclaimed was less than the amount received.

Mr. Speaker, I ask the gentleman from Wisconsin (Mr. OBEY) if that is correct.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, that is also absolutely correct.

Mr. ANDREWS. Mr. Speaker, I also want the RECORD to reflect this choice: As our constituents sit in traffic tonight, as they cannot get home because of suburban sprawl and the lack of mass transit, as they cannot deal with the many, many problems they have, the majority has made a choice and its choice is a huge tax reduction for the top 1 percent of the people in the country or an honest choice which we would make which we would say, the top 1 percent could do without that huge tax reduction. Let us not raise taxes on the other 99 percent and meet the needs of this country.

That is the real choice. I understand why the majority wants to obscure it because they are making the wrong choice.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Let me conclude again by saying what I said at the beginning of this debate and that is that it is unfortunate that we are dealing with such an inadequate allocation. Our cities, our towns, our States deserve much better than this. This reflects poorly on the priorities of the leadership of this Congress. This has to change. Our communities cannot afford to be shortchanged on important transportation dollars.

This undercuts their economic development. This undercuts job growth. We need to do much better.

Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is no question when we look at our infrastructure and our roads and bridges and our transit systems and our ports and our airports, there is always an additional need for money. That is why we have invested so much as what we have done in our trust funds as well as annual appropriations. But there also comes a time where you cannot just keep taxing and spending on the aspect of wanting to provide a big government to the entire country on every single item, every single day.

It requires some of the tough looks of where we have to hold some line item spending. It comes to looking at a budget, and 302(b) allocations that set forth those tough decisions that both the appropriators and then this body have to do. Just as the difficulty that everyone knows we have in bringing forth the final solution for TEA–LU.

If it was just an unlimited big spending picture of what some of the failed liberal policies of the 40 years before this majority came into power, I guess you could keep that tax and spending going. But the American people have also said a couple of things: One, we need to hold the line on spending. We need to hold the line on taxes, and we also need to look at making some of those tough decisions that we have today as this appropriations bill comes to the floor of the House after the vote on the rule.

Mr. Speaker, I have said it time and time again, it is an open rule. It is one that gives every single member of this body an opportunity to bring any germane amendment to the floor for consideration on their amendments by this body, and I am sure upon the completion of the hard work that this body will do over the next several days on this bill we will get the best bill possible to bring forth as a completed appropriations bill that we have as a rule before us.

□ 1615

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MATHESON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 235, nays 170, not voting 28, as follows:

[Roll No. 451]

YEAS—235

Abercrombie	Berman	Bonilla
Akin	Biggert	Bono
Andrews	Bilirakis	Brady (PA)
Baca	Bishop (GA)	Brown (SC)
Bachus	Blumenauer	Brown, Corrine
Barton (TX)	Blunt	Brown-Waite, Ginny
Bass	Boehner	

Butterfield
Buyer
Calvert
Camp
Cantor
Capuano
Cardin
Carter
Clay
Clyburn
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Ehlers
Emanuel
Eshoo
Everett
Farr
Fattah
Feeney
Ferguson
Foley
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gilchrest
Gillmor
Gonzalez
Goodlatte
Goss
Granger
Green (TX)
Grijalva
Gutierrez
Gutknecht
Harman
Hastings (WA)
Hefley
Herger
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Honda
Houghton
Hoyer
Hunter
Hyde
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, Sam
Jones (OH)
Kanjorski
Kennedy (RI)
Kilpatrick
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Lowey
Lucas (OK)
Maloney
Manzullo
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McDermott
McHugh
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moran (VA)
Murtha
Myrick
Nadler
Neal (MA)
Ney
Nunes
Oberstar
Olver
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Pickering
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Saxton
Schakowsky
Scott (GA)
Scott (VA)
Sessions
Shadegg
Shaw
Sherman
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solis
Souder
Spratt
Stark
Sweeney
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Turner (OH)
Van Hollen
Velázquez
Visclosky
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—170

Aderholt
Alexander
Allen
Baird
Baldwin
Barrett (SC)
Bartlett (MD)
Beauprez
Becerra
Bell
Berkley
Berry
Bishop (NY)
Bishop (UT)
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Burgess
Burns
Burr
Capito
Capps
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Coble
Costello
Davis (CA)
Davis (TN)
Davis, Jo Ann
DeFazio
DeMint
Deutsch
Doggett
Duncan
Edwards
Emerson
English
Etheridge
Evans
Filner
Flake
Forbes
Ford
Fossella
Franks (AZ)
Gerlach
Gibbons
Gingrey
Goode
Gordon
Graves
Green (WI)
Hall
Harris
Hart
Hayes
Hayworth
Hensarling
Herseth
Hill
Holden
Holt
Hooley (OR)
Hostettler
Hulshof
Inslee
Isakson
Jenkins
John
Johnson (CT)
Johnson (IL)
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind
Kucinich
LaHood
Lampson
Latham
Lewis (KY)
LoBiondo
Lofgren
Lucas (KY)
Lynch
Majette
Marshall
Matheson
McCollum
McGovern
McIntyre
Mica
Michaud
Miller (NC)
Moore
Moran (KS)
Murphy
Musgrave
Napolitano
Neugebauer
Northup
Norwood
Nussle
Obey
Ose
Paul
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pomeroy
Porter
Price (NC)
Rahall
Ramstad
Renzi
Rogers (AL)
Rogers (MI)
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schiff
Sensenbrenner
Shays
Shimkus
Shuster
Simmons
Smith (WA)
Snyder
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Tiahrt
Tierney
Toomey
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Vitter
Walden (OR)
Wamp
Wu

NOT VOTING—28

Ackerman
Baker
Ballenger
Blackburn
Boehlert
Bonner
Burton (IN)
Cannon
Conyers
Crowley
Engel
Gephardt
Greenwood
Hastings (FL)
Johnson, E. B.
Kleczka
Langevin
McInnis
Miller (FL)
Nethercutt
Owens
Schrock
Serrano
Sherwood
Slaughter
Tauzin
Towns
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). There are 2 minutes remaining in this vote.

□ 1641

Messrs. JENKINS, SULLIVAN, MARSHALL, GIBBONS, Mrs. JOHNSON of Connecticut, Mr. MICA, Ms. KAPTUR, Mr. RAMSTAD, Ms. HOOLEY of Oregon, Mr. ADERHOLT, Ms. MCCOLLUM, and Mr. FOSSELLA changed their vote from ''yea'' to ''nay.''

Messrs. LIPINSKI, FRANK of Massachusetts, COOPER, CLYBURN, and Ms. WATERS changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall vote Nos. 444, 445, 446, 447, 448, 449, 450, and 451. Had I been present, I would have voted "aye" on rollcall vote Nos. 446, 447, 448, and 449. I would have voted "nay" on rollcall vote Nos. 444, 445, 450, and 451.

PERSONAL EXPLANATION

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, this afternoon I was meeting with Veteran constituents and upon the vote being called for the previous question for the H. Res. 770, I hurriedly ran from the office to the floor. I had intended to vote against the order of previous question as I did last year but in my haste, inadvertently voted in its favor. I oppose the Congressional pay raise for 2005 and would like the record to reflect that view.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5025, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, and that I may include tabular material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 770 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5025.

□ 1640

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, with Mr. GILLMOR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Massachusetts (Mr. OLVER) each will control 30 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume, and I am pleased to present to the House the appropriations bill H.R. 5025, making appropriations for the Departments of Transportation and Treasury, and independent agencies for fiscal year 2005.

Mr. Chairman, this is one of the most fiscally responsible bills that we have considered this year. It is a large bill. It is a diverse bill. It includes funding for the Department of Transportation, the Treasury Department, the General Services Administration, the Executive Office of the President, National Archives, Office of Management and Budget, Office of Personnel Management and many other agencies that are

critical to the functioning of our Federal Government.

This measure is also one that includes a number of government-wide general provisions that are there to facilitate efficiency and effectiveness in the day-to-day functions of large and small Federal agencies.

Mr. Chairman, we have a lot of budget constraints this year. In examining the budget picture for this particular bill, it is important to note that this bill is within the budget that has been produced by this House of Representatives and the allocation that has been provided to this subcommittee.

Of course, the Congress, working with the President and his administration, has rightfully put a priority on spending for the ongoing conflict in Iraq and the war on terror. At the same time, we have a serious Federal deficit. These have forced this body and our Committee on Appropriations and our subcommittee to make many difficult and challenging choices. This bill reflects the difficulty of those choices.

In fact, if you look at this bill, Mr. Chairman, and compare it with last year's parallel bill, you will find that this particular measure is $3 billion below the amount that we spent on the same accounts last year. There are reasons that it is not a pure apples-to-apples comparison, but, nevertheless, the bill is below what the similar funding was for last year. That reflects, again, the priority choices and the tough choices we have made.

So we will hear, during debate upon this measure, many people say, ''Oh, I wish we had more money for this program or that or some other.'' But the answer is that we do not. We are in deficit spending already, and this is about as fiscally responsible a bill as you will find before this body this year.

Overall, the bill provides a total of $89.9 billion for the Department of Transportation, for the Treasury Department, the Internal Revenue Service, highways, transit, rail programs, seafaring programs, and the heart of the executive branch, including the White House itself.

□ 1645

Overall, for salary and expense accounts, the bill does provide increases, some 2.6 percent, but that is within the context of a bill that overall is $3 billion less than the bill last year, so many agencies will have to do some belt tightening. We have tried to give them the maximum flexibility to manage those resources.

I appreciate the fact that the gentleman from Florida (Chairman YOUNG) did not have the funds he would have liked to have had to put into highways and other forms of transportation, but he gave us a fair allocation and I am grateful for it. Not only is it $3 billion below last year's spending on these accounts, it is below the amounts requested by the President in his budget.

There were some highly controversial provisions we did not include. Some Members said if you can put a provision in the bill to end a process known as dumping, which has to do with reparation payments to industry to offset unfair trade practices, then you can grab over a billion dollars to put back into the bill. That would not have been good because whatever Members' position on dumping is, it has not passed the House and we cannot assume we will have the money.

Despite the budget constraints we have, I am pleased we have been able to improve the most important part of our transportation network, and that is funding for highways. The $34 billion in this bill for highway funding is a billion dollars above the funding level for highways last year. So in the context of a bill that itself is $3 billion below last year, when we are still able to improve highway funding, that shows we have addressed priorities and tried to put the money where it is most important.

That money for highways is going to be good news for the economy because each billion dollar investment is estimated to create some 40,000 jobs.

There is also some confusion in the context of this bill, Mr. Chairman, because we have a two-stage process. We have still pending in the conference committee a surface transportation highways and transit reauthorization bill. I do not want to confuse this bill with that. The reauthorization bill establishes a framework for spending transportation dollars, but this bill actually provides the money. We do not have a new framework created, so we have had to assume the old framework remains in place, but we are going to have some controversy over that because we have not been able to achieve passage into law of a highway reauthorization bill. We have some technicalities, some rules of this House, and I know many Members are going to come forward and raise points of order. They are going to say you have to strike this part out of the bill because we have not authorized it.

Well, we have been waiting a year for an authorization bill which has not happened. We had to do our work anyway. Some Members may want to pick the bill apart and say you are putting money into something that is not authorized. Under the rules of the House they may be successful in doing that. But I want to reassure every Member of this body that we are going to repair those things when it gets to conference. We are going to have the same kind of responsible bill that the Committee on Appropriations has produced that comes out of conference regardless of how Members may want to pick at it with parliamentary tactics on the House floor today.

It is not the fault of the Committee on Appropriations that a reauthorization measure has not passed as the rules of the House dictate it should have been a year ago.

Looking at some other details of the bill, the FAA, the Federal Aviation Administration, will receive a 3 percent increase for its operations, less than they requested, but more than the government-wide average for nondefense, nonhomeland security programs. That again is because we have put priority into aviation funding, just as we have in highway funding, and we have put cuts in place elsewhere in the bill to compensate for that.

The bill meets the aviation funding guarantees mandated by authorizing legislation which has passed this body. It provides the budget request for the capital investment programs of the FAA and grants-in-aid for airports all across America.

The essential air service program, which I am not personally fond of, but one which is important to many Members of this body, receives the same funding as it did in fiscal year 2004. And there is $20 million for the small community air service program.

Amtrak is always a point of controversy in this House. The bill proposes $900 million for Amtrak, the same amount suggested by the administration in their budget proposal, and I believe it is a responsible number for Amtrak because Amtrak still has not resolved its long-term problems, and we have not developed the kind of partnerships that we need with States and communities that want Amtrak service investing in Amtrak service. The administration believes and I agree that realistic Amtrak reform has to be enacted before we start putting more money into that passenger rail service.

The Secretary of Transportation and the President and his administration believe the amount in this bill is sufficient to keep that rail service operating in the next year, and I agree with them.

Funding for transit in the bill is essentially at the level of fiscal year 2004, also the same as the administration requested, but we have done some adjustment inside of the numbers. Within the overall total, we have put more of the transit funding into the formula grant program that goes into every community in every State in the country on a formula basis. That benefits everyone. We put more money through the formula and less in the so-called new starts program which is fixed guideway and light rail programs, and so forth, which only benefit a handful of communities. We have tried to put the transit funding more than ever before into a formula that benefits everyone, not just select areas of the country.

I want to make one more comment about the new starts program. We do not know how much money is going to be available over the next 5 years to fund these expensive rail systems that a lot of communities want and often do not do the necessary cost-benefit analysis. The Department of Transportation Inspector General told us this year there are far more systems being proposed than we will ever have money to pay for. The requests exceed the resources by billions of dollars, so this

bill takes a prudent step to slow down that program, put money instead into the formula grants instead of making some decisions that we might regret tomorrow on how we prioritize the new starts program. But the bill does fund all of the existing full funding grant agreements on new start programs that are between different communities and the Federal Transit Administration.

In the Treasury Department of this bill, which includes the Internal Revenue Service, we essentially have funded it at the same level of fiscal year 2004. Some of the proposals we believe need further refinement. New initiatives such as the IRS initiative to increase its hiring to improve collections are too financially ambitious for the budget climate we have.

One of the largest increases in the bill, 12.7 percent, goes to what is known as FinCEN, the Financial Crimes Enforcement Network. It is part of the Department of Treasury and it is part of counterterrorism activities, trying to disrupt the financial basis of terrorists.

When we look at another part of the bill, the Executive Office, the President, the White House and the offices that work with the White House, it is actually a little below last year's because we have reduced contract programs. The bill includes funding for the majority of the construction program of the GSA, General Services Administration. That is the landlord for the Federal Government. But even though it includes the majority of the GSA construction program and GSA says it has something like a $7 billion backlog, we have shaved back those requests to meet our budget allocation.

All 12 border stations that are proposed in the budget request are fully funded because of the priority that we have given to homeland security. A more complete summary of all of the funding levels in the bill, as well as significant provision, is in the committee report at pages 3 and 4, and I direct Members to those pages.

Mr. Chairman, a final comment before I close my debate for now. My final comment is about the messiness that I know we are going to experience with the points of order and money in the bill being stricken. We are probably going to have to offer some amendments on what do we do with the money. I would just as soon have it go to pay the national debt, but in our protocol that is not how it works in this process. So if some money is stricken on points of order, I will offer the necessary amendments to park that money into some of the major accounts with the understanding that when we get to conference we will be overcoming the parliamentary problems of those points of order and restoring that money to the transportation programs which I think some people are going to try to take it from with their points of order.

I thank the gentleman from Massachusetts (Mr. OLVER), our ranking member. The gentleman presents his personal views and the views of the minority tenaciously and effectively and is good to work with. I appreciate that and his no-nonsense approach to things.

I also appreciate our staff that has worked so well and will reiterate a thank you to them later on before we close this debate.

This is a good, solid bill. It is responsible. It merits and deserves the support of every Member of this body, and I ask that Members support it when we come to passage of the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. OLVER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to thank the gentleman from Oklahoma (Chairman ISTOOK) for working so hard to get this bill to the floor. I suspect from the comments the gentleman has made and what I know about what is likely to go forward today, he is going to be working even harder to keep this bill moving in the days ahead.

I would also like to thank the staff on both sides of the aisle for their work on the bill: On the minority side, Mike Malone and Bob Bonner from our appropriations staff; and on the majority side, Rich Efford, Cheryle Tucker, Leigha Shaw, and Kurt Dodd. I may be missing somebody, but at least those for the majority. This bill has become more complex than any of us thought it would, and I appreciate all of their efforts and all of the efforts that they will be asked to make.

As Members know, the Congress has not adopted a budget resolution for fiscal year 2005. Instead, the deemed resolution under which the House is operating and which placed tax cuts number one among all priorities, resulted in a severely constrained 302(b) allocation for this subcommittee, along with several other subcommittees of the Committee on Appropriations.

I give credit to the gentleman from Oklahoma (Mr. ISTOOK) to distribute the pain broadly, if not totally evenly, and for making significant adjustments during the subcommittee and full committee deliberations, particularly in regard to hiring additional air traffic controllers in anticipation of the impending wave of controller retirements which everyone except the Department of Transportation seems to know is coming, and in regard to better funding the Financial Crimes Enforcement Network, one of the Treasury Department's front lines against terrorism, yet the subcommittee's abysmal allocation precluded us from fixing several more serious problems with the bill.

On the transportation side, Mr. Chairman, every major account in the Department of Transportation is underfunded. The bill only provides $900 million for Amtrak, which I would say parenthetically, to parse the chairman's words, is another program of which he is not particularly fond. At this level there should be no surprise next spring when Amtrak must curtail services. And furthermore, as critical maintenance is further deferred, we risk serious to catastrophic accidents on the very trackage for which Congress has direct responsibility in our budgetary process.

Transit programs are also underfunded. The new starts transit account is $300 million below the President's request.

□ 1700

There are so many new urban areas growing in this country, areas that are rising in population at substantially larger than the average population increase year by year in this country where it is becoming totally unthinkable to simply add additional lanes of highways and where more and more of them are thinking about how to use bus transit, rail transit, various kinds of programs, under the transit administration; and the new starts transit account is $300 million below the President's request to deal with those needs.

The FAA's operations account is well below the President's fiscal year 2005 request and the FAA facilities and equipment account is nearly $400 million below the fiscal year 2004 enacted level. The two highway safety agencies, the Motor Carrier Safety Administration and the National Highway Traffic Safety Administration, taken together, are cut by 25 percent below the President's request. Those are two major highway safety programs. They are not terribly large, but they are cut from the President's request by 25 percent, one much higher than the other.

Even the Federal Highway Administration, which is up 1.5 percent from the enacted fiscal year 2004 budget, is underfunded because 1.5 percent is well below the standard overall inflation rate. Fifteen percent of our whole economy comes from the transportation industry, broadly taken, and the chairman has already pointed out that construction in transportation infrastructure produces, he used the number 40,000 jobs per $1 billion. My understanding is that the Department of Transportation typically uses 45,000 jobs per $1 billion of construction, but we do not need to quibble about that. I will accept his number and he probably would accept my number as being in the ballpark.

So that moneys in the transportation budget and in the Federal highway budget, particularly vitally important for infrastructure improvements all over the country, construction in every mode of transportation costs more every year as the population and congestion increase.

I do not understand what the benefit is to us as individuals in our districts and to the people of America in general cutting below inflation, at least below inflation and in some cases far beyond below inflation, of programs in the transportation area.

On the Treasury portion of this budget, the IRS tax law enforcement account is $286 million below the President's request and nearly half a billion

dollars below what the IRS oversight board says is needed to properly enforce tax laws in fiscal year 2005.

Since we have had sworn testimony that moneys expended properly on tax law enforcement brings in on average a six-to-one return, thereby the proper use of $286 million would bring in nearly $2 billion of additional revenue. In effect, we are giving tax cuts to tax cheaters by not fully funding the tax law enforcement request that the President made.

Secondly, on the Treasury portion, language is included that bars the use of matricula consular identification cards, language which is harmful to homeland security and the Department of Treasury's fight against terrorist financing. I am hopeful that that language will be taken out of this bill before it becomes law.

On the floor today and in conference, I hope we will be able to rectify these problems and have strong bipartisan support for the end product that we hope to produce as expeditiously as possible.

Mr. Chairman, I yield 5 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy in permitting me to speak on this bill, and I do appreciate the hard work that the subcommittee has been grappling with. Clearly, there is not enough money that is allocated to meet all of the varied transportation interests that we have. I also appreciate that this is a dynamic process and that there is going to be probably more give and take on top of the give and take that has occurred.

I would like to speak briefly on behalf of three simple points. First, I heard the chairman talk about the new starts being oversubscribed and talked about how there is more in the pipeline than is likely to be funded at current levels for some time. I agree wholeheartedly, but I would think that that is a signal, a signal about the popularity and the importance of these programs across the country, the way the chairman a moment ago talked about the need for more highway funding because of the need for highways.

We have an extraordinarily popular and important program for communities across the country, including some that may not leap to mind for people thinking about multimodal transportation systems, like in Houston, Texas, where the voters there just this last fall, actually against formidable political opposition, the voters decided that they were going to extend that program. It simply as yet does not keep pace with demand, but we have a broad and growing range of interest around the country.

I would suggest that unlike the highway projects which are basically an entitlement that are not subjected to rigorous analysis in terms of cost-benefit, I know of no projects in the Federal arena in terms of major capital outlay that are subjected to more aggressive cost-benefit analysis than what we do now to the new starts. I think they meet the test. They are in community after community proving to be the most cost-effective ways of reducing congestion, far more effective than spending a similar amount simply widening roads as has been the case in the past. That is why it is popular. That is why it has been supported by Republican and Democratic administrations. That is why we see it in communities large and small across the country.

I am concerned, because I know that there has been some report language that talks about how to deal with the weighing of land-use considerations. I would respectfully suggest that this is an area that I think the FTA can, in fact, improve its performance; but it is rather, I would suggest, looking at the value of land use rather than to undervalue land-use criteria.

What community after community is finding is that if you do not look at supportive land uses around transportation facilities, without proper land use you can have them be ineffective, you can have a road project that is basically producing congestion the day it is opened if you are not careful with what the land uses are there. We ought to strengthen the land use provisions, not weaken them. That was part of the original ISTEA. That was part of TEA–21. That is part of what is going through the process now if we ever reauthorize the Surface Transportation Act. This is in TEA–LU.

I would hope that we could work with the FTA to balance, to strengthen, to give more of these choices and, frankly, to provide some weight to the economic development potential of these activities. My concern is at the FTA now there is not enough weight for the economic development potential of transportation. I have seen it, and I can give example after example where it has arisen. I would hope that we are able to provide proper weight for it.

The final point that I wanted to raise deals with Amtrak. I am concerned that the Republican leadership, with their Rules Committee, that we have not been able to protect the spending under Amtrak and maybe subject it to a point of order.

This continues an ongoing drama we have here where the administration proposes to undercut it, where there are proposals here in the House to chop it down even further, but it is always restored because it is something the public understands is an essential part of our transportation infrastructure. It is critical in corridors like in the Northeast. It is something that we have historically starved and underfunded. We have spent less in total of Amtrak's entire history than we do in 1 year of highway spending.

I would hope that we not get involved with that charade this time where we go through the motions of cutting Amtrak funding or even eliminating it, because the American public will not stand for it. It will ultimately be reinstated, but it undercuts the effective administration that we see with the new director, Peter Gunn, who is the best I have seen since I have been in Congress. They deserve better and so does the rail passenger public.

Mr. OLVER. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. HOYER), the distinguished minority whip.

Mr. HOYER. I thank the gentleman from Massachusetts for his generous yielding of time.

Mr. Chairman, I would like to express my concern about the funding in this bill. I realize the chairman's hands are tied by the allocation given to the subcommittee which is in turn driven by the budget resolution passed by the House earlier this year, but not passed by the Congress. I thank Chairman YOUNG and Ranking Member OBEY for doing the best they could with the limited resources available to this committee, but this committee did not have sufficient funds to meet its responsibilities.

This highlights the fact that the decisions we make about the budget and taxes have real consequences. With this bill today, we unfortunately see one major result of our decisions. We have failed to live up to the commitments we made to our constituents.

I am, however, pleased in certain instances that we have followed the President's recommendation. The FDA consolidation which we are about has been included in the bill, an extraordinarily important effort that a bipartisan effort of the administration and the Congress has pursued. These funds will go a long way in helping to relocate FDA employees from their current substandard facilities into modern, state-of-the-art facilities. The consolidation would bring to an end the practice of extending costly leases for various FDA offices throughout the region. We in fact will save money as a result of this.

On the other hand, I am deeply disappointed that the bill does not provide any election reform grants. We have funded the commission. That is appropriate. We had a press conference this morning with the president of the National Association of Secretaries of State. One of the most important things that remains left to do on election reform is revising the statewide election system of recording registrants and having those registrants available to each and every precinct. The grants that are due under the authorization are not included in this bill.

The administration, in my opinion, Mr. Chairman, must show a stronger commitment to election reform, including calling for more funding, if this Nation is to avoid a repeat of the 2000 election debacle. We will not do anything between now and November 2 with this money; but very frankly the registration that we require in the bill be a statewide system must be online

by January of 2006. That is a very brief period of time, some 14 months from now.

□ 1715

And if we do not fully fund the authorization, I fear the States will not meet that deadline. We made a promise to the States that the efforts to address the most serious deficiencies in their electoral systems would not turn into another unfunded federal mandate. By failing to fund fully the commitment of the authorization bill, we have mandated something and we have not helped pay for it.

Also, Mr. Chairman, I remain concerned that the proposed funding for tax law enforcement is insufficient to adequately enforce compliance and make our tax system fair and efficient. I am also disappointed there are no funds to reimburse small airports in the Washington region for the losses incurred when the Federal Government shut them down. I have had extensive discussions with the chairman on this issue. There is some language in the bill that hopefully will make this a conferencable item, but I will tell the chairman once again and I will tell the chairman of the caucus it is ironic that small business people who have invested and taken a risk in being entrepreneurs, as the majority party says it supports, are left hanging in the wind by governmental action and, through no fault of their own, none, zero, find themselves one of the few people who have not been reimbursed for the losses they have incurred. That is, I think, ironic and wrong.

While the bill recognizes that the Department of Transportation should consider ways to reimburse general aviation, the failure to provide funds will only leave small airports, specifically College Park, Potomac, and Washington Executive, dangling on the brink of financial ruin. We should do more for general aviation and small business, what we did for the airlines, large airports, and the insurance industry in the aftermath of the terrorist attacks, help ease the burden our actions have caused. Those actions were caused by terrorists.

I urge the chairman to include funds for general aviation reimbursement as we move forward to make fair restitution to the small airports.

Finally, Mr. Chairman, the failure to provide funds for DOT headquarters is short-sighted, in my opinion, and leaves the Department of Transportation headquartered in an aging building with an infrastructure well beyond the end of its useful life. I urge the chairman to correct this oversight, and we ought to look for the resources to do that.

I appreciate the committee's hard work, and I hope we can make some changes and make this a better bill. And I thank the gentleman for yielding me this time.

Mr. OLVER. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, following on the comments of the gentleman from Maryland (Mr. HOYER), I rise to express my disappointment that this bill does not fully fund the amounts authorized in the Help America Vote Act for Fiscal Year 2005. We were proud to pass, on the eve of the 2002 election, groundbreaking election reform legislation that authorized almost $4 billion in Federal funding that would, among other things, improve the administration of elections; provide for increased accessibility to voting equipment and polling places for people with physical disabilities; fund the replacement of obsolete voting equipment; pay for protection and advocacy systems; provide for the establishment of State-based administrative procedures to remedy grievances, including grievances pertaining to accessibility; call for the establishment of an Election Assistance Commission to serve as a national clearinghouse and resource for the compilation of information and review procedures with respect to the administration of Federal elections; and to call for the establishment of a Standards Board, a Board of Advisors and a Technical Guidelines Development Committee, all of which would assist in the development of good voting systems.

Although over the past couple of years I have been primarily focused on standards for voting systems, specifically the lack of meaningful security standards for such systems, the Help America Vote Act funded many important things. And considering how important it is to our democracy to have fair, accessible, auditable elections and considering how many doubts citizens have had about elections in recent years, I am deeply disappointed that this appropriations bill provides so little HAVA funding, only $15 million, a pittance on the amount yet to be funded authorized under HAVA. Fifteen million dollars provided in this bill, leaving unappropriated more than $700 million of HAVA's total $4 billion in authorized sums.

The absence of consistent funding for HAVA has caused a fundamental problem; namely, that Federal funding of election systems outpaced the critical need for implementation of meaningful security standards. The Committee on Appropriations recognizes this. With respect to the $15 million appropriated for the Election Assistance Commission, $5 million is specified ''to address the desperate need for research and standardization of election systems.'' The committee urged the EAC to ''address standards and technology issues related to voting equipment.'' That is their quote. But the committee does not provide adequate funding. Forty million dollars was authorized to fund the protection and advocacy systems to ensure full participation in the election process for individuals with disabilities. Less than a third of that amount has been appropriated. One hundred million dollars was authorized to fund polling place accessibility and education and outreach to disabled voters. Only about a third, less than a third of that, has been appropriated. HAVA has called for the establishment of a Help America Vote college program and Help America Vote high school program. Each of those has received only about half of the authorized amount. HAVA called for $3 billion in payments to States to help them meet their audit trail, accessibility, language and other voting system requirements, and we fall far short of the appropriations in that category.

HAVA, I believe, will have to be amended. There are some improvements that need to be made. But that is no excuse for not fully funding this central part of the American democratic system to make sure that we have fair, accessible, and auditable elections.

Mr. OLVER. Mr. Chairman, I yield 4 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me this time, and I recognize that there is a lot of hard work that the chairman and the ranking member have done on this bill and we are grateful for the bill despite its horrific shortcomings. The subcommittee has worked hard.

Secretary Ridge was before the Select Committee on Homeland Security today, and an issue came forward that I think simply must be discussed during this debate. I said to the Secretary, whose hard work I very much appreciate, how much it looked like we were fighting the last war. The private sector, the business sector does not even have up on the website of the Department of Homeland Security some guidance as to what they should do, except that is where all the people are and that is where all the revenue is raised in our country. And where the people are in transportation, on rail, on public transportation, it is not even on the radar when it comes to homeland security.

I have got an act that has a lot of cosponsors called the Safe Transportation Act, and I have to tell my colleagues that terrorists really do have an open field. Not in aviation anymore. We have shored up some of that. But they have an open field in public transportation and in rail. That is where the people of the United States spend their time going to and from one part of the country and the other and one city and the other. We have allocated about $14 billion for aviation security, and we are sure we are doing the right thing there. I am on the Subcommittee on Aviation. That was the right thing to do. There is more still to be done there.

But even after Madrid, there is something approximating $300 million for all of rail and public security. People go down into subways. People get on buses. And there is almost a blank

slate there. There are 9 billion passenger trips annually on public transportation. I first learned of this problem when Amtrak security here in the Nation's capital came to see me, and I tell my colleagues that my hair stood on end because Union Station is here, and he told me what his work had been with transportation security, and he told me that virtually nothing had been done here or in Penn Station or in Philadelphia's 30th Street Station. Do not even let us get to the tracks and the tunnels. Amtrak accounts for only 22,000 of U.S. rail routes. There are 140,000, and sometimes they are a big company like Amtrak. Most of the time they are much smaller.

We are living in the post-Madrid era, not the post-9/11 era. There were 200 innocent civilians killed there, 1,500 injured. One-third of terrorist attacks in the world target public transportation systems because they are the easiest to get at. I sat in on a Subcommittee on Railroads hearing a couple of months ago, and I was horrified. There were two agencies there who are supposed to be responsible, the Federal Railways Administration and the Department of Homeland Security official. Nobody is in charge. There is no national security plan for rail security, for subways, for buses. There is no assessment of our rail security, of our public transportation security. And here we have a transportation bill before us. Hey, not a word about it. It simply has to be inserted into this debate. It is no way to run a railway, no way to run a public transportation system. And we are in mortal danger when we leave the major form of transportation used by Americans hanging out there with $300 million while we have fought the last $14 billion war in the air. Let us begin to fight this war.

Mr. OLVER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the help of the gentleman from Massachusetts (Mr. OLVER) in trying to expedite the time for the benefit of everyone.

Let me just make a couple of responses to things that a couple of speakers mentioned on the Help America Vote Act. We have provided federally something like a little bit over $3 billion in the last couple of years to improve voting systems around the country. A billion dollars of that remains unspent. The States are not prepared for us to add more money on this bill or any other bill because they have got $1 billion that has not been spent yet. They are waiting on some voting standards that are supposed to be coming from the Federal Commission, which has not produced those standards yet. So I do not think it would be responsible for us to take away from other urgent and pressing priorities to put more money into an account that already has much more money than it is able to spend. So I figured it was important to mention that.

Let me, in closing, Mr. Chairman, repeat something I said before, and I realize it is confusing to anyone that may be listening as well as to Members. We will be having in this bill a number of parliamentary tactics, points of order brought up. It is not because we on the Committee on Appropriations have not produced a responsible piece of legislation, trying to fund the most important priorities in transportation and in the Federal agencies that are a part of this bill. However, because the authorizing committee has not been able to complete its work, it is overdue by over a year now, we have some things that technically are unauthorized programs. It is unauthorized for this Congress to provide Federal highway transportation dollars.

□ 1730

Now, it is authorized to collect the gasoline tax that our citizens and our constituents pay at the pump. They are paying the fuel tax, but it is not authorized with that money to go back into the roads. That is not right, so we went ahead and we provided that transportation funding. We provided the highway funding and the transit funding and the aviation funding, even though the authorizers say, Well, it is not authorized.

So because of that, they are going to come to this floor, and people are going to say: Well, strike out this part of the bill. Strike out funding for highways. Strike out provisions, some of which spend money and some of which, frankly, save money. We are going to have a messy process.

But ultimately, when this committee produces the House-Senate conference report, we are going to take care of those things that are addressed in this. We will resolve the parliamentary problems because, frankly, the points of order, the parliamentary points of order do not lie against a conference report as they do against legislation in the House.

Mr. OLVER. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Massachusetts.

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding.

I would like to clarify on the point that the gentleman just made and the example that you just used, that the authorization bill on T&I highway programs has an extension. As of the moment, it is an extension to September 24. If there is not a full bill, authorization bill that has passed by then, there will be another extension into the next fiscal year. And the irony is that we would then be operating within the authorization of the extension into the next fiscal year in what we would be doing.

Mr. ISTOOK. Mr. Chairman, the gentleman is certainly correct.

Reclaiming my time, this Committee on Appropriations is doing its work, whether the rest of Congress is able to for whatever reason fulfill their work or not. I regret that this is going to be a messy process. We are going to have some things stricken out of the bill. If the things that the Committee on Transportation and Infrastructure want stricken out of the bill are all out, we would be above our budget allocation. We would be in violation of the rules of this House on the amount of money that we have to spend. That is pretty bad when we have a deficit already to make it worse.

We are not going to do that. We will make sure appropriate amendments are offered and that this bill ultimately is within the amount of money that has been allocated to our subcommittee. There may be some money that has been shifted about to what essentially will be a holding account, just to make sure that we reserve it, and we will resolve those things in committee.

I realize it is confusing, Mr. Chairman, but I appreciate the trust and patience of the Members of this body in resolving it.

I do, in final comment, want to make sure that I express my appreciation for the people that work behind the scenes so hard and so diligently to help us present this legislation: The chief clerk of our subcommittee, Rich Efford; the staff members of the subcommittee, Cheryle Tucker, Leigha Shaw, Dena Baron, Kristen Jones; and a member of my staff who works on these issues, Kurt Conrad, as well as my chief of staff, John Albaugh.

We are grateful because we, as Members of Congress, could not do our work without the good support of these people.

I thank the gentleman from Massachusetts and other Members for their comments. I ask every Member to support this bill.

Mr. Chairman, I was ready to yield back the balance of my time, but I yield such time as he may consume to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chairman, I thank the gentleman for yielding me this time.

I just want to say that the Subcommittee on Transportation, Treasury and Independent Agencies has done an outstanding job of bringing this legislation before the House of Representatives, and it is during some very difficult times with some constraints.

I am going to be here representing the Committee on Transportation and Infrastructure, raising some points of order, not to object to specific actions the subcommittee has taken; I think they have been well-intended on behalf of the appropriators, but to offer and preserve some of the integrity of the authorization process on behalf of the full committee, the gentleman from Florida (Mr. YOUNG), myself, and other subcommittee chairs.

So again, it is a process of give and take, but we do know the constraints the gentleman has worked under, and we have to preserve the integrity of our jurisdiction. And I think that is important in this legislative process.

So I congratulate the gentleman from Oklahoma and the staff on the

fine job they have done, and we will offer these in that light.

Mr. ISTOOK. Mr. Chairman, I appreciate the comments of the gentleman from Florida (Mr. MICA).

Mr. PASTOR. Mr. Chairman, the bill we are considering funds an important national security program. The Maritime Security Program ensues that a fleet of privately owned, commercially viable and militarily useful vessels are available to meet national defense and other security requirements.

A critical new element of the MSP program as reauthorized in the Department of Defense FY04 Authorization Act is the construction and operation of militarily useful U.S.-flag product tankers, which are essential for the carriage of jet fuel and other refined petroleum products. To facilitate the construction of U.S.-flag tankers in American shipyards for the MSP program, the FY04 Defense Authorization Act created the National Defense Tank Vessel Construction Assistance Program.

Implementation of this program has been underway for seven months, with seven proposals submitted to the Maritime Administration (MARAD) to construct tankers for the MSP program. Final proposals for the program are due very shortly—on October 22, 2004—with awards scheduled to occur in January 2005. However, a provision in the Transportation Appropriations Bill—sec. 187—would bring this vital program to a halt by prohibiting any funds from being expended by MARAD to administer or ward any of the contracts under the new program.

On August 24, 2004, the U.S. Transportation Command, the Defense Department's logistics arm, identified ''New Tank Vessels . . . constructed in the United States after November 25, 2003, and capable of carrying militarily useful petroleum products,'' as critical to the new MSP fleet. I am concerned about the potential impact this section 187 prohibition would have on our Nation's military sealift at a time when the support of our overseas troops is critical.

I intend to work with the Committee and Subcommittee in conference to ensure that this key component of our military sealift is not jeopardized, and I encourage my colleagues who share this concern to do the same.

Mr. GEORGE MILLER of California. Mr. Chairman, I rise in support of the Sanders Amendment.

The Sanders Amendment would ensure that the Treasury department not use any of its funds to undermine the federal court decision in Cooper v. IBM that held that cash balance conversions violate federal pension and age discrimination law.

We've been here many times before.

In fact, this is the fourth time that the House is voting to protect older workers' pensions under cash balance pension plan conversions. The last 2 times the amendment passed by 308–121 and 258–160.

Instead of voting to prevent the Treasury department from undermining workers' pensions, I wish we were voting on affirmative legislation to set standards for cash balance plans.

This issue has been going on since 1999.

In 1999, IBM converted its pension plan to a cash balance plan.

Luckily, it's computer savvy workers quickly figured out that the conversion would reduce their expected pensions.

The workers mobilized and got Congress to hold hearings.

The Clinton administration imposed a moratorium on approvals of conversions in September 1999.

But then, the new Bush administration tried to issue regulations lifting the moratorium and permit conversions without any worker protections.

Immediately 218 members of Congress wrote to the President urging him to revise the regulations and protect older workers.

Four times the House and Senate have voted to require Treasury to withdraw its regulations and protect older workers.

Finally, this year, in 2004, the Bush administration relented and withdrew the regulations. The administration even sent up a revised legislative proposal that contained a modicum of older worker protections though it did not go far enough to protect older workers.

But, still the issue is not resolved.

Either Congress or the courts must set standards for cash balance plans and conversions to such plans.

The Republican Congress has done nothing on this issue for almost six years.

If anything, Republican leaders would defer to employer lobbying and simply permit cash balance conversions without any protections for older workers.

That's why the Courts may have to be the body that resolves some of these issues.

One court, the federal district court for the state of Illinois, determined that conversions are illegal. Other courts have disagreed. These cases and others still waiting to be heard will take years to resolve.

This amendment makes clear that the Treasury department shall not interfere in these cases.

Today worker pension security is in crisis.

This administration has done nothing to protect workers' pensions and done everything to undermine them.

They didn't protect workers after Enron and WorldCom from employers loading pension plans with employer stock and letting the executives protect themselves while leaving the workers stuck with worthless stock.

They didn't protect participants in 401(k) plans from a broad range of mutual fund abuses that have decimated retirement nest eggs.

And they are not protecting workers now from rampant pension underfunding. The PBGC, the agency that insures traditional pensions, has a $10 billion deficit. And if the airlines go under, the deficit will increase by another $30 billion. Over 1,000 pension plans are more than $50 million underfunded. And workers don't even know because the PBGC is required to keep the information secret.

The administration and the Republican majority are doing nothing to protect worker pensions.

I urge my colleagues to vote once again and remind the majority that it is the will of the Congress that older workers be protected in cash balance pension plan conversions.

Mr. ISTOOK. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill will be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 5025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Transportation and Treasury and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, $89,000,000, of which not to exceed $2,219,100 shall be available for the immediate Office of the Secretary; not to exceed $704,500 shall be available for the immediate Office of the Deputy Secretary; not to exceed $15,394,300 shall be available for the Office of the General Counsel; not to exceed $12,639,000 shall be available for the Office of the Under Secretary of Transportation for Policy; not to exceed $8,572,900 shall be available for the Office of the Assistant Secretary for Budget and Programs; not to exceed $2,315,700 shall be available for the Office of the Assistant Secretary for Governmental Affairs; not to exceed $23,435,700 shall be available for the Office of the Assistant Secretary for Administration; not to exceed $1,928,700 shall be available for the Office of Public Affairs; not to exceed $1,456,000 shall be available for the Office of the Executive Secretariat; not to exceed $704,000 shall be available for the Board of Contract Appeals; not to exceed $1,277,200 shall be available for the Office of Small and Disadvantaged Business Utilization; not to exceed $2,052,900 for the Office of Intelligence and Security; not to exceed $3,300,000 shall be available for the Office of Emergency Transportation; and not to exceed $13,000,000 shall be available for the Office of the Chief Information Officer: *Provided*, That the Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided further*, That no appropriation for any office shall be increased or decreased by more than 5 percent by all such transfers: *Provided further*, That any change in funding greater than 5 percent shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That not to exceed $60,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine: *Provided further*, That notwithstanding any other provision of law, excluding fees authorized in Public Law 107–71, there may be credited to this appropriation up to $2,500,000 in funds received in user fees: *Provided further*, That none of the funds provided in this Act shall be available for the position of Assistant Secretary for Public Affairs.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $8,700,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, $10,800,000.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Working Capital Fund, not to exceed $125,000,000, shall be paid from appropriations made available to the Department of Transportation: *Provided*, That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further*, That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further*, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency modal administrator: *Provided further*, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of guaranteed loans, $500,000, as authorized by 49 U.S.C. 332: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $18,367,000. In addition, for administrative expenses to carry out the guaranteed loan program, $400,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, $3,000,000, to remain available until September 30, 2006: *Provided*, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

In addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, $51,700,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended.

POINT OF ORDER

Mr. MICA. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MICA. Mr. Chairman, I raise a point of order against the phrase, ''to be derived from the airport and airway trust fund,'' beginning on page 5, line 24 and ending on line 25. This provision violates clause 2 of rule XXI. It changes existing law and, therefore, constitutes legislating on an appropriations bill in violation of House rules.

The CHAIRMAN. Is there further discussion on the point of order?

The Chair recognizes the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Chairman, the point of order, if I understand it correctly, is made against a portion, rather than an entirety, of the paragraph. I believe the House rules require the point of order must lie against the entire paragraph and not just a portion thereof. I believe the point of order is incorrectly offered accordingly.

The CHAIRMAN. The point of order may be surgical. Does the gentleman from Oklahoma wish to expand the point of order?

Mr. ISTOOK. If the gentleman's point of order lies against the entire paragraph, I concede the point of order.

The CHAIRMAN. The gentleman has made a point of order against a portion of the paragraph. Does the gentleman from Oklahoma wish to expand the point of order?

Mr. MICA. Mr. Chairman, I believe that we want to raise the point of order against a phrase. Again, the point of order which we want to raise against is the phrase, ''to be derived from the airport and airway trust fund,'' beginning on page 5, line 24, and ending on line 25.

The CHAIRMAN. It is permissible to make a point of order against a portion of the paragraph, but the gentleman from Oklahoma may expand the point of order.

Mr. ISTOOK. Mr. Chairman, I insist that the point of order lie against the entire paragraph, that it be expanded against the entire paragraph.

The CHAIRMAN. The point of order is against the entire paragraph.

Mr. MICA. Mr. Chairman, just to that point, I do not believe that the gentleman would have the ability to expand. I thought that would be my prerogative in this case.

The CHAIRMAN. Any Member may assert the point of order against the entire paragraph.

The Chair will hear argument on the point of order.

Mr. ISTOOK. Mr. Chairman, with it expanded to include the entire paragraph, I must concede the point of order.

The CHAIRMAN. The gentleman concedes the point of order. The point of order is sustained. The paragraph is stricken.

Mr. ISTOOK. Mr. Chairman, for the purposes of clarity, the Chair has ruled to strike the entire paragraph?

The CHAIRMAN. The point of order is against the entire paragraph, and the entire paragraph is stricken.

Mr. OLVER. Mr. Chairman, I am sorry to raise this, but there are apparently different versions, different copies floating around, and I would like to know, if I could, what is it that has now been stricken?

The CHAIRMAN. The paragraph beginning on page 5, line 20 through line 26.

Mr. OLVER. All right. I thank the Chair very much, because my recollection was that one of the Members on the other side was reading from a different section at one point, and the words did not correspond to what is in that section, so I got a little confused.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities, the operation (including leasing) and maintenance of aircraft, subsidizing the cost of aeronautical charts and maps sold to the public, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 108–176, $7,726,000,000, of which $6,002,000,000 shall be derived from the Airport and Airway Trust Fund, of which not to exceed $6,160,617,600 shall be available for air traffic services activities; not to exceed $916,894,000 shall be available for aviation regulation and certification activities; not to exceed $224,039,000 shall be available for research and acquisition activities; not to exceed $11,674,000 shall be available for commercial space transportation activities; not to exceed $50,624,000 shall be available for financial services activities; not to exceed $69,821,600 shall be available for human resources program activities; not to exceed $149,569,800 shall be available for region and center operations and regional coordination activities; not to exceed $139,302,000 shall be available for staff offices; and not to exceed $38,254,000 shall be available for information services: *Provided*, That none of the funds in this Act shall be available for the Federal Aviation Administration to finalize or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the date of the enactment of this Act: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further*, That of the funds appropriated under this heading, not less than $7,000,000 shall be for the contract tower cost-sharing program: *Provided further*, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: *Provided further*, That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further*, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: *Provided further*, That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States: *Provided further*, That none of the funds in this Act for aeronautical charting and cartography are available for activities conducted by, or coordinated through, the Working Capital Fund: *Provided further*, That of the funds provided under this heading, $4,000,000 is available only for recruitment, personnel compensation and benefits, and related costs to raise the level of operational air traffic control supervisors to the level of 1,846: *Provided further*, That none of the funds in this Act may be obligated or expended for an employee of the Federal Aviation Administration to purchase a store gift card or gift certificate through use of a Government-issued credit card.

POINT OF ORDER

Mr. MICA. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MICA. Mr. Chairman, I raise a point of order against the phrase, ''of

which $6,002,000,000 shall be derived from the airport and airway trust fund,'' beginning on page 6, line 13 and ending on line 14.

This provision violates clause 2 of rule XXI. It changes existing law and, therefore, constitutes legislating on an appropriations bill in violation of House rules.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, I wish to be heard on the point of order.

First, I believe the point of order would properly lie against the entire paragraph. However, in this case, and I want to make sure this is agreeable with my counterpart, the gentleman from Florida (Mr. MICA), I intend to offer an amendment after the sustaining of the point of order to insert the language, ''of which $4.972 billion shall be derived from the airport and airway trust fund,'' effectively reinserting the stricken provision but changing the dollar figure from $6.2 billion to $4.972, which I believe satisfies the parliamentary requirements.

Mr. MICA. Mr. Chairman, if the gentleman will yield, I have no objection to that.

Mr. ISTOOK. Mr. Chairman, with that in mind, I will not ask that the point of order be expanded.

The CHAIRMAN. The Chair will not permit a colloquy on this, but will hear each gentleman in turn. Does the gentleman concede the point of order?

Mr. ISTOOK. I do.

The CHAIRMAN. The point of order is conceded and sustained, and the language identified by the point of order is stricken from the bill.

AMENDMENT OFFERED BY MR. ISTOOK

Mr. ISTOOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ISTOOK:

On page 6 of the bill, after ''$7,726,000,000,'' insert: ''of which $4,972,000,000 shall be derived from the Airport and Airway Trust Fund,''.

Mr. ISTOOK. Mr. Chairman, this simply changes the figure that comes from the airport trust fund to satisfy the point of order that was raised without doing further damage to this section of the bill. I ask that it be adopted.

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Mr. MICA. Mr. Chairman, we agree with that amendment and urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. ISTOOK).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, technical support services, improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment, as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this heading; to be derived from the Airport and Airway Trust Fund, $2,500,000,000, of which $2,056,300,000 shall remain available until September 30, 2007, and of which $443,700,000 shall remain available until September 30, 2005: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further,* That upon initial submission to the Congress of the fiscal year 2006 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the Federal Aviation Administration which includes funding for each budget line item for fiscal years 2006 through 2010, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget: *Provided further*, That of the funds provided under this heading, not less than $3,000,000 is for contract audit services provided by the Defense Contract Audit Agency.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $117,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2007: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

RESCISSION OF CONTRACT AUTHORIZATION

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations; for procurement, installation, and commissioning of runway incursion prevention devices and systems at airports of such title; for grants authorized under section 41743 of title 49, United States Code; and for inspection activities and administration of airport safety programs, including those related to airport operating certificates under section 44706 of title 49, United States Code, $3,200,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds under this heading shall be available for the planning or execution of programs the obligations for which are in excess of $3,993,000,000 in fiscal year 2005, notwithstanding section 47117(g) of title 49, United States Code: *Provided further,* That none of the funds under this heading shall be available for the replacement of baggage conveyor systems, reconfiguration of terminal baggage areas, or other airport improvements that are necessary to install bulk explosive detection systems: *Provided further,* That notwithstanding any other provision of law, not more than $69,302,000 of funds limited under this heading shall be obligated for administration and not less than $20,000,000 shall be for the Small Community Air Service Development Pilot Program: *Provided further,* That of the funds made available for the Small Community Air Service Development Pilot Program, $4,000,000 shall be for airports which have been discontinued from the Essential Air Service program since January 1, 2001: *Provided further,* That of amounts available in this or prior year Acts under 49 U.S.C. 48112 and 48103, as amended, $758,000,000 are rescinded.

POINT OF ORDER

Mr. MICA. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MICA. Mr. Chairman, I raise a point of order against page 11, line 13, beginning with in ''for grants,'' through page 11, line 18, ending with ''United States Code.''

This provision violates clause 2 of Rule XXI. It provides an appropriation not supported by authorization in violation of House rules.

The CHAIRMAN. Do other Members wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, I insist that the point of order be expanded to lie against the entire paragraph.

The CHAIRMAN. The point of order is expanded and is pending against the entire paragraph.

Does any Member wish to be heard further on the point of order? If not, the Chair will rule.

The provision proposes to appropriate certain funds in the bill. Under clause 2(a) of rule XXI, such an earmarking must be specifically authorized by law. The burden of establishing the authorization in law rests in this instance with the committee. Finding that this burden has not been carried, the point of order is sustained and the paragraph is stricken from the bill.

Mr. MICA. Mr. Chairman, how far would that strike through, to what line and page?

The CHAIRMAN. It would strike the entire paragraph.

Mr. MICA. Mr. Chairman, through page 12, line 15?

The CHAIRMAN. The gentleman is correct.

The Clerk will read.

Mr. POMEROY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage in a colloquy with the gentleman from Oklahoma (Mr. ISTOOK), the distinguished chairman of the Subcommittee on Transportation, Treasury and Independent Agencies of the Committee on Appropriations.

Mr. Chairman, I rise on behalf of the gentleman from New Hampshire (Mr. BASS), the gentlewoman from Pennsylvania (Ms. HART) and Resident Commissioner, the gentleman from Puerto

Rico (Mr. ACEVEDO-VILÁ) to discuss an issue that is critical to our districts, air traffic control training programs.

As you know, the Air Traffic Collegiate Training Initiative, also known as CTI, is a successful program that provides the Federal Aviation Administration an educated pool of candidates to meet its air traffic controller staffing needs.

I am proud to inform you that the University of North Dakota's air traffic controller program is one of the 13 FAA approved and certified CTI programs that graduates exemplary students ready for assignment with the FAA.

As a strong supporter of the Air Traffic Collegiate Training Initiative Program, I am concerned that the proposed report language in fiscal year 2005 House, Transportation and Related Agencies appropriation bill may effect the current role CTI programs play in the Federal Aviation Administration's training process. Some may read this report language as requiring all new air traffic controllers to receive their initial training at the FAA Academy. I would appreciate the chairman's confirmation that this proposed report directive does not jeopardize the status of CTI programs as an integral part of the FAA's training process.

Mr. ISTOOK. Mr. Chairman, will the gentleman yield?

Mr. POMEROY. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. I thank the gentleman from North Dakota for raising this important issue. I welcome the opportunity to set record straight.

As you know, the fiscal year 2005 House Transportation Appropriations bill provides the FAA with an additional $9 million for additional hiring and training of air traffic controllers. This $9 million is above the amount already budgeted by the FAA.

Our report does not specify how much has to go for salaries and how much for training, but we can safely assume the majority will go for salaries. Probably no more than $2 million to $4 million more of those funds would be for the actual training.

The base budget for the FAA includes $47.5 million for controller training. Our bill allows that money to be used at the discretion of the FAA at the CTI programs, at the FAA Academy or elsewhere. Contrary to inaccurate press report, this report language does not affect the role of CTI programs as a vital source of air traffic control candidates for the FAA. The language only directs that the portion of the extra $9 million that is used for training is to be used at the FAA Academy. But that leaves the overwhelming majority of training funds that are in the base budget, $47.5 million, at the discretion of the FAA, which can include the CTI programs at the same level as currently.

This report language does not affect the role that CTI programs play in the training process of the FAA. There is nothing in this bill that prevents CTI programs such as the one in the gentleman's district at the University of North Dakota from continuing in the same level and scope as they do currently.

Mr. POMEROY. Mr. Chairman, reclaiming my time, that was a very important clarification for us. I thank the gentleman for participating in it.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wanted to briefly explain what is happening here with these points of order that are being raised by the Committee on Transportation and Infrastructure and the subsequent points of order that are being raised by the Committee on Appropriations.

The bill was finely tuned and very well crafted. The gentleman from Oklahoma (Mr. ISTOOK), of the subcommittee, did a really good job bringing out a transportation bill. They could have used more money but they had a certain amount available and they used it wisely. But when the Committee on Transportation and Infrastructure raises their points of order, and when the gentleman from Florida (Mr. MICA) concludes raising these points of order, this bill will be at least a billion dollars over its 302(b) allocation. And, of course, we have committed ourselves, since I have been chairman of this committee, to staying within our 302(a) allocation and the subcommittees to staying within their 302(b) allocations.

So we are required to raise our own points of order to deal with unauthorized projects that we had agreed to fund but that we will no longer be able to fund, because the points of order raised by the Committee on Transportation and Infrastructure will take us beyond our 302(b) allocation.

I explain that in advance because very shortly I will raise several points of order that will bring the bill back into balance within the 302(b) allocation.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

GENERAL PROVISIONS—FEDERAL AVIATION ADMINISTRATION

SEC. 101. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant: *Provided*, That, the Federal Aviation Administration shall accept such equipment, which shall thereafter be operated and maintained by FAA in accordance with agency criteria.

SEC. 102. None of the funds in this Act may be used to compensate in excess of 375 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 2005.

SEC. 103. None of the funds made available in this Act may be used for engineering work related to an additional runway at Louis Armstrong New Orleans International Airport.

AMENDMENT OFFERED BY MR. JEFFERSON

Mr. JEFFERSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JEFFERSON:
Page 13, strike lines 11 through 14.

Mr. JEFFERSON. Mr. Chairman, this amendment is offered because the provision is dated by some 3½ years. It has been carried over year after year. It prohibits the use of engineering funds in the program for engineering work related to an additional runway.

It raises an issue of concern on the part of our authority with respect to planning. It was ostensibly placed in the bill, in the legislation some years ago because of concerns about practices that a prior administration that existed some 2 years ago now, which has been replaced by a new aviation board, a new mayor, widely regarded as a reforming regime, and is simply now in the way of appropriate planning.

There are issues of safety, issues of security, issues now even of evacuation as we try and move people. It is very important our airport be permitted to plan as it should. So this provision is dated and I urge that it be stricken from the bill.

Mr. Chairman, I yield back the balance of my time.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

I do want to speak against the amendment offered by the gentleman from Louisiana (Mr. JEFFERSON). This particular language has been carried in this bill, I understand, for several years. The airport is actually in the district of the gentleman from Louisiana (Mr. TAUZIN), who I understand is in the hospital currently, but he strongly desires the provision to remain in the bill and not be stricken.

I am also advised that the gentleman from Louisiana (Mr. VITTER), another of the Louisiana Members whose district adjoins the airport, strongly supports keeping this provision in the bill.

Members should have the right, Mr. Chairman, to protect their district. The runway would not, as I understand it, be in the district of the gentleman from Louisiana (Mr. JEFFERSON), though I understand his concern for his State and for the overall community. I do ask, however, that the amendment be opposed, that it remain in the bill, and that we respect the wishes of the Members who are most closely involved and fully informed on this problem.

Mr. JEFFERSON. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Louisiana.

Mr. JEFFERSON. I wish to inform the gentleman that the airport is in the district that I represent. It is not in the gentleman from Louisiana's (Mr. TAUZIN) district or the gentleman from Louisiana's (Mr. VITTER) district.

It may be that a part of the runway may stretch into the area but the airport is in my district. It is not in the

district of the gentleman as you have so stated. So I want that corrected.

We have a vital interest in this. It is the city's property. It is the district's property that I represent and, really, we have the greatest interest in the outcome here.

Mr. ISTOOK. I understand that. I appreciate the gentleman. I do not want to be incorrect on any of these things.

It is obviously a project that affects a multiplicity of districts, the way the boundaries are configured. I do ask that the language remain in the bill.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

If I understand, Mr. Chairman, the argument that was used, the reasoning that was used by the chairman and then the correction that was made by the gentleman from Louisiana (Mr. JEFFERSON), it would appear to me that using the gentleman from Oklahoma's (Mr. ISTOOK) argument, that this language should be stricken from the bill because the area involved is in the district of the member from Louisiana (Mr. JEFFERSON). So I would support the gentleman from Louisiana (Mr. JEFFERSON) in his position.

The CHAIRMAN. The question on the amendment offered by the gentleman from Louisiana (Mr. JEFFERSON).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 104. None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Federal Aviation Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to air traffic control, air navigation, or weather reporting: *Provided*, That the prohibition of funds in this section does not apply to negotiations between the agency and airport sponsors to achieve agreement on ''below-market'' rates for these items or to grant assurances that require airport sponsors to provide land without cost to the FAA for air traffic control facilities.

SEC. 105. None of the funds appropriated or limited by this Act may be used to change weight restrictions or prior permission rules at Teterboro Airport in Teterboro, New Jersey.

SEC. 106. WAR RISK INSURANCE.—Title 49, United States Code, is amended:

(a) In section 44302(f) by striking ''August 31, 2004, and may extend through December 31, 2004,'' and inserting in lieu thereof ''December 31, 2005''.

(b) In section 44302(g)(1) by striking ''may provide'' and inserting in lieu thereof ''shall make available''.

(c) In section 44303(b) by—

(1) striking ''December 31, 2004'' and inserting in lieu thereof ''December 31, 2005.''

(2) striking the phrase ''may extend'' in the last sentence of the subsection and inserting in lieu thereof ''shall extend''.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Necessary expenses for administration and operation of the Federal Highway Administration, not to exceed $346,000,000, shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration.

POINT OF ORDER

Mr. YOUNG of Florida. Mr. Chairman, I raise a point of order.

For the reasons that I announced earlier I make a point of order on page 14, line 21 to page 15, line 3, because it provides an appropriation for an unauthorized program and, therefore, violates section 2(a) of rule XXI. Clause 2 of rule XXI states in pertinent part, ''An appropriation may not be in order for an expenditure not previously authorized by law.''

Mr. Chairman, this program is unauthorized and I insist on my point of order.

N O T I C E

Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. EDDIE BERNICE JOHNSON of Texas (at the request of Ms. PELOSI) for today on account of medical reasons.

Mr. EVERETT (at the request of Mr. DELAY) for today after 6:00 p.m. and the balance of the week on account of the hurricane.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. FRANK of Massachusetts, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. PEARCE) to revise and extend their remarks and include extraneous material:)

Mr. OSBORNE, for 5 minutes, today.

Mrs. BLACKBURN, for 5 minutes, today.

Mr. GINGREY, for 5 minutes, September 15.

Ms. HARRIS, for 5 minutes, September 15.

ADJOURNMENT

Mr. PEARCE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 44 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 15, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9557. A communication from the President of the United States, transmitting requests for additional emergency FY 2004 supplemental appropriations for the Departments of Defense, Health and Human Services, Homeland Security, Housing and Urban Development, the Interior, and Veterans Affairs, the Corps of Engineers, the National Aeronautics and Space Administration, the Small Business Administration, and the Executive Office of the President; (H. Doc. No. 108–215); to the Committee on Appropriations and ordered to be printed.

9558. A letter from the Chairman, Commission on Review of Overseas Military Facility Structure of the United States, transmitting as prescribed by Congress, a copy of the Commission's charter, pursuant to 10 U.S.C. 111 note, Public Law 108–132, section 128(b)(3)(A), (117 Stat. 1383); to the Committee on Armed Services.

9559. A letter from the Acting Comptroller, Department of Defense, transmitting a notice that the Department of the Navy is pursing a multiyear procurement (MYP) for fiscal year 2004 through fiscal year 2008, pursuant to Public Law 108–87 and Public Law 108–136; to the Committee on Armed Services.

9560. A letter from the Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Rutland, Vermont) [MB Docket No. 02–66; RM–10252] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9561. A letter from the Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Anchorage, Alaska) [MB Docket No. 04–189; RM–10962] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9562. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the

Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Keeseville, New York, Hartford and White River Junction, Vermont) [MM Docket No. 02–23; RM–10359] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9563. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Crawfordville, Georgia) [MB Docket No. 02–225; RM–10517] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9564. A letter from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992; Direct Broadcast Satellite Public Interest Obligations; Sua Sponte Reconsideration [MM Docket No. 93–25] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9565. A letter from the Secretary, Department of Commerce, transmitting a six-month report prepared by the Department of Commerce's Bureau of Industry and Security on the national emergency declared by Executive Order 13222 of August 17, 2001, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979, pursuant to 50 U.S.C. 1641(c) 50 U.S.C. 1703(c); to the Committee on International Relations.

9566. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting a report prepared by the Department of State concerning international agreements other than treaties entered into by the United States transmitted to the Congress within a sixty day period after the execution thereof as specified in the Case-Zablocki Act, pursuant to 1 U.S.C. 112b(b); to the Committee on International Relations.

9567. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of an unauthorized retransfer of U.S.-origin defense articles pursuant to Section 3(e) of the Arms Export Control Act (AECA); to the Committee on International Relations.

9568. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to Section 620C(c) of the Foreign Assistance Act of 1961, as amended, and in accordance with section 1(a)(6) of Executive Order 13313, a report prepared by the Department of State and the National Security Council on the progress toward a negotiated solution of the Cyprus question covering the period June 1, 2004 through July 31, 2004; to the Committee on International Relations.

9569. A letter from the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting a draft bill ''To adjust the boundary of Lowell National Historical Park, and for other purposes''; to the Committee on Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of September 13, 2004]

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1787. A bill to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies; with an amendment (Rept. 108–680). Referred to the Committee of the Whole House on the State of the Union.

[Filed on September 14, 2004]

Mr. REYNOLDS: Committee on Rules. House Resolution 770. Resolution providing for consideration of the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–686). Referred to the House Calendar.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. THOMAS: Committee on Ways and Means. H.R. 2971. A bill to amend the Social Security Act to enhance Social Security account number privacy protections, to prevent fraudulent misuse of the Social Security account number, and to otherwise enhance protection against identity theft, and for other purposes, with an amendment; referred to the Committee on the Judiciary for a period ending not later than October 1, 2004, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X (Rept. 108–685, Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 2971. Referral to the Committees on Financial Services, and Energy and Commerce, extended for a period ending not later than October 1, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. PALLONE (for himself, Mr. BILIRAKIS, and Mrs. MALONEY):

H.R. 5071. A bill to amend the International Claims Settlement Act of 1949 to allow for certain claims of nationals of the United States against Turkey, and for other purposes; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Florida:

H.R. 5072. A bill making emergency supplemental appropriations for the fiscal year ending September 30, 2004, for additional disaster assistance relating to hurricane damage, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WAXMAN (for himself, Mr. SANDERS, Mrs. MALONEY, Mr. CUMMINGS, Mr. KUCINICH, Mr. CLAY, Mr. VAN HOLLEN, Ms. NORTON, Ms. MCCOLLUM, and Mr. MCDERMOTT):

H.R. 5073. A bill to restore and strengthen the laws that provide for an open and transparent Federal Government; to the Committee on Government Reform.

By Mr. CHABOT:

H.R. 5074. A bill to amend the Internal Revenue Code of 1986 to provide a 100 percent deduction for the health insurance costs of individuals; to the Committee on Ways and Means.

By Mr. CONYERS (for himself, Mr. SCOTT of Virginia, and Mr. RANGEL):

H.R. 5075. A bill to encourage successful reentry of incarcerated persons into the community after release, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, Education and the Workforce, Financial Services, Energy and Commerce, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY (for herself, Mr. SERRANO, Mr. TOWNS, and Mr. BISHOP of New York):

H.R. 5076. A bill to extend the time for filing certain claims under the September 11th Victim Compensation Fund of 2001, and for other purposes; to the Committee on the Judiciary.

By Mr. NETHERCUTT:

H.R. 5077. A bill to require the conveyance of a small parcel of Federal land in the Colville National Forest, Washington, and for other purposes; to the Committee on Resources.

By Mr. RUPPERSBERGER:

H.R. 5078. A bill to amend the Internal Revenue Code of 1986 to provide incentives for alternative fuels and alternative fuel vehicles; to the Committee on Ways and Means.

By Mr. GREEN of Texas (for himself, Mr. BAIRD, and Mr. DELAHUNT):

H.J. Res. 103. A joint resolution proposing an amendment to the Constitution of the United States to abolish the electoral college and to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. BLUMENAUER (for himself, Mr. TOM DAVIS of Virginia, Mr. MARKEY, Mr. PAYNE, Mr. RYUN of Kansas, and Mr. WALSH):

H. Con. Res. 491. Concurrent resolution recognizing the achievements of the National Captioning Institute in providing closed captioning services to Americans who are deaf or hard-of-hearing; to the Committee on Education and the Workforce.

By Mr. HINCHEY:

H. Con. Res. 492. Concurrent resolution supporting the goals and ideals of Melanoma/Skin Cancer Detection and Prevention Month and Melanoma Day, and for other purposes; to the Committee on Energy and Commerce.

By Mr. VITTER:

H. Con. Res. 493. Concurrent resolution supporting the goals and ideals of National Volunteer Blood Donor Month; to the Committee on Government Reform.

By Mr. SIMMONS (for himself, Mr. COLLINS, Mrs. MILLER of Michigan, Mr. EVANS, Mr. SNYDER, Mr. GIBBONS, and Mr. SKELTON):

H. Res. 771. A resolution expressing the thanks of the House of Representatives and the Nation for the contributions to freedom made by American POW/MIAs on National POW/MIA Recognition Day; to the Committee on Armed Services.

By Mr. WAXMAN (for himself, Mr. MCHUGH, Ms. SCHAKOWSKY, Mr. DINGELL, Mr. RANGEL, Mr. BROWN of Ohio, Mr. CLAY, Ms. ROYBAL-ALLARD,

Mr. MCDERMOTT, Mr. OWENS, and Mr. SNYDER):

H. Res. 772. A resolution supporting the goals and ideals of National Long-Term Care Residents' Rights Week and recognizing the importance the Nation of residents of long-term care facilities, including senior citizens and individuals living with disabilities; to the Committee on Government Reform.

By Mr. EDWARDS:

H. Res. 773. A resolution providing for the consideration of the bill (H.R. 4628) to protect consumers in managed care plans and other health coverage; to the Committee on Rules.

By Mr. MEEHAN (for himself, Mr. BILIRAKIS, and Mrs. MALONEY):

H. Res. 774. A resolution commending the people and Government of Greece for the successful completion of the 2004 Summer Olympic Games; to the Committee on International Relations.

By Mr. SHERMAN:

H. Res. 775. A resolution expressing the sense of the House of Representatives with respect to the continuity of Government and the smooth transition of executive power; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 97: Mr. ROTHMAN and Mr. KENNEDY of Rhode Island.

H.R. 104: Mr. VAN HOLLEN.

H.R. 141: Mr. BUTTERFIELD.

H.R. 571: Ms. ROS-LEHTINEN.

H.R. 677: Mr. BELL, Ms. CARSON of Indiana, and Mr. ISRAEL.

H.R. 742: Ms. HOOLEY of Oregon and Mr. EVANS.

H.R. 806: Mr. LEWIS of Kentucky.

H.R. 857: Mr. PITTS.

H.R. 953: Ms. HARRIS.

H.R. 962: Mr. DAVIS of Florida and Ms. LORETTA SANCHEZ of California.

H.R. 1064: Mr. WEINER.

H.R. 1101: Mr. SIMMONS.

H.R. 1310: Mr. DEMINT.

H.R. 1406: Mr. COLE.

H.R. 1478: Mr. LARSEN of Washington.

H.R. 1622: Mr. FILNER.

H.R. 1639: Mr. BLUMENAUER.

H.R. 1653: Mr. EDWARDS and Mr. PICKERING.

H.R. 1824: Mr. GEPHARDT.

H.R. 1858: Mr. FATTAH.

H.R. 1930: Ms. SCHAKOWSKY.

H.R. 2034: Mr. UPTON, Mr. CAMP, and Mr. PENCE.

H.R. 2094: Mrs. CUBIN.

H.R. 2265: Mrs. JOHNSON of Connecticut.

H.R. 2353: Mr. BOEHLERT and Mr. MOORE.

H.R. 2387: Mr. MCDERMOTT and Mr. MILLER of North Carolina.

H.R. 2442: Mr. EVANS.

H.R. 2510: Mrs. BONO.

H.R. 2511: Mr. WILSON of South Carolina.

H.R. 2680: Mr. BUTTERFIELD, Mr. SHIMKUS, Mr. FALEOMAVAEGA, Mr. DICKS, Mr. MEEHAN, Mr. DOYLE, Mr. NADLER, Mr. CAPUANO, Mr. COOPER, Mr. FRANKS of Arizona, Mr. VAN HOLLEN, Mr. CHANDLER, Mr. ANDREWS, Mr. MCINTYRE, Mr. STUPAK, Mr. OBERSTAR, Mr. MATSUI, Mr. NEAL of Massachusetts, Mr. OBEY, Ms. SOLIS, Mr. ORTIZ, Mr. KLECZKA, Mr. WAMP, Mr. LYNCH, Mr. HOYER, Mr. EVANS, Ms. ESHOO, Mr. HOLT, Ms. HOOLEY of Oregon, Mr. INSLEE, Ms. DEGETTE, Mr. DEFAZIO, Mrs. TAUSCHER, Mr. UDALL of Colorado, Mrs. NAPOLITANO, Mr. MURTHA, Mr. PASCRELL, and Mr. WU.

H.R. 2699: Mr. ANDREWS.

H.R. 2735: Mr. CALVERT.

H.R. 2821: Mr. EHLERS and Mr. SIMMONS.

H.R. 2968: Mr. SNYDER.

H.R. 3103: Mr. DUNCAN, Mr. DOOLITTLE, Mrs. JO ANN DAVIS of Virginia, and Mr. ORTIZ.

H.R. 3111: Mrs. BONO, Mr. BARTLETT of Maryland, Mr. WYNN, and Mr. CHANDLER.

H.R. 3119: Mr. KLINE.

H.R. 3192: Mr. COSTELLO and Mr. PRICE of North Carolina.

H.R. 3359: Mr. ANDREWS and Mr. HASTINGS of Florida.

H.R. 3455: Mr. WEXLER.

H.R. 3558: Mr. KILDEE.

H.R. 3729: Mr. GUTIERREZ, Mr. JACKSON of Illinois, Mr. LATOURETTE, Ms. DELAURO, Mr. FORD, and Mr. JEFFERSON.

H.R. 3755: Mrs. KELLY.

H.R. 3870: Mr. DOOLITTLE.

H.R. 3929: Mr. ALEXANDER.

H.R. 3993: Ms. HERSETH.

H.R. 4026: Mr. COLE.

H.R. 4051: Mr. PLATTS.

H.R. 4067: Ms. WATSON.

H.R. 4100: Mr. OBERSTAR.

H.R. 4113: Ms. HARRIS.

H.R. 4169: Mr. BOSWELL and Mr. LAHOOD.

H.R. 4232: Mr. STENHOLM.

H.R. 4341: Mr. COSTELLO.

H.R. 4356: Mr. OBERSTAR.

H.R. 4367: Mr. RYAN of Ohio, Mr. WEXLER, and Mr. LARSEN of Washington.

H.R. 4374: Mr. WEXLER.

H.R. 4420: Mr. BEAUPREZ, Mr. BISHOP of Utah, Mr. MORAN of Kansas, Mr. MOLLOHAN, Mr. HOEKSTRA, Mr. SAM JOHNSON of Texas, and Mr. EHLERS.

H.R. 4433: Ms. LEE, Mr. CUMMINGS, Mr. BOYD, and Mr. KING of New York.

H.R. 4578: Mr. LIPINSKI, Mr. SHIMKUS, and Mr. AKIN.

H.R. 4616: Mr. BROWN of Ohio and Mr. CUMMINGS.

H.R. 4622: Mr. OSBORNE.

H.R. 4626: Mr. RAMSTAD and Mr. GINGREY.

H.R. 4628: Mr. ISRAEL and Mr. HOUGHTON.

H.R. 4634: Mr. BURR and Mr. WELDON of Pennsylvania.

H.R. 4689: Mr. PASTOR.

H.R. 4711: Mr. STUPAK.

H.R. 4724: Mr. ETHERIDGE and Mr. GORDON.

H.R. 4779: Mr. COOPER and Mr. HOLDEN.

H.R. 4826: Mr. INSLEE, Mr. UDALL of Colorado, Mr. MCHUGH, and Mr. PORTMAN.

H.R. 4866: Mrs. JOHNSON of Connecticut, Ms. MCCOLLUM, Mr. ENGLISH, and Mr. GILLMOR.

H.R. 4875: Mr. STRICKLAND.

H.R. 4887: Mr. CHANDLER.

H.R. 4889: Mr. RANGEL and Mr. DAVIS of Florida.

H.R. 4924: Mr. BOYD, Mr. MICA, Mr. KELLER, Mr. DAVIS of Florida, Mr. FOLEY, Mr. MEEK of Florida, Ms. ROS-LEHTINEN, Mr. WEXLER, Mr. DEUTSCH, and Mr. HASTINGS of Florida.

H.R. 4927: Ms. BERKLEY, Ms. BALDWIN, and Mr. NETHERCUTT.

H.R. 4928: Ms. BORDALLO and Mr. ACEVEDO-VILA.

H.R. 4936: Mr. WAXMAN, Mr. BROWN of Ohio, Mr. PALLONE, Mrs. CAPPS, Ms. MCCARTHY of Missouri, Mr. ENGEL, Ms. ESHOO, Mr. TOWNS, Mr. JOHN, Mr. GREEN of Texas, and Mr. HOUGHTON.

H.R. 4956: Mr. DUNCAN.

H.R. 5001: Mr. FARR.

H.R. 5040: Mr. SCOTT of Georgia.

H.R. 5053: Mrs. MCCARTHY of New York and Mr. KING of New York.

H.R. 5057: Mrs. MALONEY, Mr. WEXLER, Mr. COOPER, Mr. WALSH, Mr. ETHERIDGE, Mr. STENHOLM, and Mr. MCINTYRE.

H. Con. Res. 111: Ms. CARSON of Indiana.

H. Con. Res. 218: Mr. FEENEY.

H. Con. Res. 468: Ms. JACKSON-LEE of Texas, Mr. MARKEY, Mr. DEFAZIO, Mr. GORDON, Mr. HONDA, Ms. BERKLEY.

H. Con. Res. 475: Mr. MCHUGH and Mr. ACKERMAN.

H. Con. Res. 485: Mr. CASE.

H. Con. Res. 486: Mr. FROST, Mrs. MCCARTHY of New York, Mr. BUYER, Mr. BONNER, and Mr. BISHOP of Georgia.

H. Res. 125: Mr. GILLMOR.

H. Res. 556: Mrs. NAPOLITANO, Mrs. JO ANN DAVIS of Virginia, Mrs. CAPPS, Ms. MILLENDER-MCDONALD, and Mr. PAYNE.

H. Res. 690: Mr. ETHERIDGE.

H. Res. 752: Mr. AKIN, Mr. SMITH of New Jersey, and Mr. KING of Iowa.

H. Res. 761: Mr. BACA, Mr. MORAN of Virginia, Mr. CARSON of Oklahoma, Mr. CANNON, Mr. THOMPSON of California, Mr. WEINER, Mr. STRICKLAND, Mr. SHAYS, Mr. WU, Mr. WAMP, Mr. SHAW, Mr. MCGOVERN, Mr. RUPPERSBERGER, Mr. ROSS, Mr. SNYDER, Ms. LINDA T. SANCHEZ of California, Mrs. NAPOLITANO, Mr. RYAN of Ohio, Mr. WAXMAN, Mr. SCOTT of Georgia, and Mr. OLVER.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 5025

OFFERED BY: MR. JEFFERSON

AMENDMENT NO. 8: Page 13, strike lines 11 through 14.

H.R. 5025

OFFERED BY: MR. POMBO

AMENDMENT NO. 9: At the end of the bill before the short title, insert the following:

SEC. 647. None of the funds made available in this Act shall be available for the development or dissemination by the Federal Highway Administration of any version of a programmatic agreement which regards the Dwight D. Eisenhower National System of Interstate and Defense Highways as eligible for inclusion on the National Register of Historic Places.

H.R. 5025

OFFERED BY: MRS. CAPITO

AMENDMENT NO. 10: Page 166, after line 3, insert the following new section:

SEC. 647. None of the funds appropriated by the Act may be used to plan, enter into, implement, or provide oversight of contracts between the Secretary of the Treasury, or his designee, and any private collection agency.

H.R. 5025

OFFERED BY: MR. VAN HOLLEN

AMENDMENT NO. 11: At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available by this Act may be used to implement the revision to Office of Management and Budget Circular A–76 made on May 29, 2003.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, TUESDAY, SEPTEMBER 14, 2004 *No. 109*

Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable LINCOLN D. CHAFEE, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord, our rock, hear our praise today, for Your faithfulness endures to all generations. You hear our prayers. Surround us with Your mercy. You are our strength and our shield. Listen to the melody of our gratitude, for You are the center of our joy. Thank You for illuminating our paths with Your precepts, dispelling the darkness of doubt and fear.

Today, guide our lawmakers. Be their shepherd in these dangerous times. Help them to not trust solely in human wisdom but to follow Your revelation. Lead them beside still waters and reward their faithfulness. May they find their refuge in You.

Lord, You are our song. Thank You for the gift of this day. Empower us to be doers of Your will and not simply hearers. Deliver us from evil as we keep our eyes on You.

We pray with grateful hearts. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LINCOLN D. CHAFEE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 14, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LINCOLN D. CHAFEE, a Senator from the State of Rhode Island, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. CHAFEE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we have a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the final 30 minutes under the control of the majority leader or his designee.

Following morning business, the Senate will resume consideration of the Homeland Security appropriations bill. As I understand, there are approximately five pending amendments the chairman will review to determine when we will be disposing of them. Therefore, Senators should expect numerous rollcall votes over the course of the day as we move toward completion of that bill.

We do have our recess between 12:30 and 2:15 for the weekly party luncheons.

While I mentioned we will have numerous rollcall votes, and I see the assistant Democratic leader, one thing we must do over the course of today and tomorrow is limit the amount of time for Senators to vote in the specified time. We have Senators who straggle in. Everyone has an excuse. We have been too liberal in allowing people to come in late. In order to finish the bill, especially as we want to pay appropriate respect to the Jewish holiday tomorrow, I plead with our colleagues that they come as soon as they are notified there will be a vote. We give everyone a heads-up when there will be a vote. Come and vote and leave and efficiently use that time.

Mr. REID. Will the Senator yield?

Mr. FRIST. I am happy to yield for a question.

Mr. REID. Mr. President, I am so gratified to hear the leader speaking on this topic.

Yesterday, we had a vote that took 45 minutes. I suggested to the floor staff maybe we should do away with the 15-minute limitation and wait until the last person shows up. It is unfair to this body. I don't think the leader should plead with people to come. They would come very quickly if we start cutting off the votes. It is unfair to this body to wait around here while somebody is finishing a phone call or a workout in the gym while the rest of us are waiting to get work done.

Also, if I could, through the Chair, we want to finish this Homeland Security appropriations bill. We have been working through these numerous amendments. We are at a point where I believe we could finalize this bill.

Finally, as the leader knows, we wanted to have a cutoff on this. I understand the leader decided yesterday to take a look at it to see if there is something we could do to help the situation in Florida through this bill. I said yesterday—and still say this—let's finish this bill. We want to help Florida as much as we can, but I think, by trying to tie these two things together, it is not going to work very well.

I respectfully submit to the leader, let's try to push forward and have a timeline when we can finish this bill. It is an important piece of legislation. We understand that. But it would set such a good tone if we could finish that prior to the holiday beginning tomorrow.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Printed on recycled paper.

Mr. FRIST. I thank the Senator.

Mr. President, I do again restate and reemphasize the importance of finishing this legislation, either this evening or early Wednesday morning, so Senators can observe the Rosh Hashanah holiday appropriately. We want to allow people to have travel time tomorrow as well. But we must finish this bill. Again, the plea for efficiency, for amendments to be brought forward, and that we vote on time is all to restate the importance of dealing with this very important bill and completing this bill in a timely way.

We may well have, in addition to a busy session today, a busy session tonight in order to complete the bill. I know the Members continue to make inquiries as to whether we will finish tonight or in the morning. All I can say is we have to finish the bill. The holiday starts tomorrow, late afternoon, but it means, to give people appropriate travel time, we need to finish it, and we have time to finish it tonight or tomorrow. But I think how things go today and tonight will determine the schedule over the course of the day, tonight, and tomorrow. I will have further updates on that as we progress on the bill.

PORTRAIT PRESENTATIONS

Mr. FRIST. Mr. President, I do wish to alert colleagues to a special event being sponsored by the U.S. Senate Commission on Art today. At 2:30 today, after the policy luncheons, in the Senate Reception Room, just adjacent to where we are now, the portraits of Senators Arthur Vandenberg of Michigan and Robert Wagner of New York will be presented.

Members of the Vandenberg and Wagner families have traveled to Washington for this special event. Senator DASCHLE and I both will be on hand and will be making very brief comments.

I encourage our colleagues to take a few moments to come by and help commemorate these two real giants of the 20th century. It is an opportunity for us to express our appreciation for two distinguished statesmen and their contributions. It is also a time for us to honor this great institution.

We have the opportunity of being part of a very unique family, the Senate family, and today's presentation of portraits in the Reception Room is a reminder of the trust that is placed in us by our fellow citizens and, indeed, as we look to the past, by history.

As a sidenote, I have to say I am very proud that the portrait of Senator Vandenberg was painted by a Tennessean, Michael Shane Neal.

Mr. DORGAN. Mr. President, will the Senator yield for a question?

Mr. FRIST. Mr. President, if I could get through everything, I would be happy to yield the floor.

Mr. DORGAN. Thank you. Not yield the floor. I am asking if the Senator would yield for a question when he is finished.

Mr. FRIST. Yes, when I finish. Let me try to get through the announcements, the statements. Let me go through the material, and then I will be happy to yield for a quick question.

ROSH HASHANAH AND ANTI-SEMITISM

Mr. FRIST. Mr. President, tomorrow is the Jewish holiday Rosh Hashanah, and it is also called the Jewish New Year. It is one of the holiest days of the year in the Jewish faith for the Jewish people. Rosh Hashanah marks the anniversary of the creation of the world. It is a day for contemplation and prayer, to look forward to the year ahead, to reflect on past deeds, and to ask for God's forgiveness.

As our friends prepare to celebrate their holiday, I think it is appropriate for us to take time to reflect on our own deeds and the state of tolerance or, as I am pained to say, the rise of intolerance toward the Jewish people. A number of Senators will be speaking on the topic this morning, and I do urge my colleagues to listen and follow the issue closely. A sampling of anti-Semitic incidents just this summer really does paint a disturbing picture.

In Paris, anti-Semitic inscriptions were found stamped into a dozen books in the main library. The perpetrators stamped the edge of the books with the words ''Against the Jewish Mafia and Jewish Racism'' and then gave the Web addresses of anti-Semitic sites.

Anti-Semitic graffiti, including a sign saying ''death to Jews'' and a swastika, was found scrawled on a wall on the grounds of Notre Dame Cathedral.

Sixty gravestones were desecrated with swastikas in a Jewish cemetery in Lyon.

France was not alone. Last month, in Germany, thugs vandalized a Jewish monument.

In Belgium, four Jewish teenagers were assaulted. One of the Jewish students was stabbed in the back and his lung was punctured.

In New Zealand, a Jewish chapel was burned down and up to 90 Jewish headstones were pulled out of the ground and smashed.

In Canada, a synagogue was vandalized with graffiti, swastikas, and anti-Semitic slogans.

These are just a few of the incidents that have occurred in recent months. Leaders in the Jewish community are understandably concerned.

I urge my colleagues and my fellow Americans to share their concern.

We know the history. We know where anti-Semitism can lead. It is our duty to stand firm against bigotry and intolerance. We cannot allow history to repeat itself.

Again, I make these statements in part because of the Jewish holiday tomorrow. A number of people have come forward to express their sentiments to us in leadership. I know further remarks will be made on the floor in morning business on that issue.

Mr. President, at this juncture, I am happy to yield for a question.

Mr. DORGAN. Mr. President, I thank the majority leader for yielding for a question.

REIMPORTATION OF PRESCRIPTION DRUGS

Mr. DORGAN. Mr. President, this morning, again in a Congress Journal, it says: ''Frist Decision to Delay Reimportation.'' This is the issue of the reimportation of prescription drugs, in order to put downward pressure on drug prices, as I mentioned to the majority leader last week on the floor of the Senate.

I harken back to about midnight, March 11, in the Senate, on the floor of the Senate, when we were in session very late, to a statement put in the Senate RECORD by the majority leader saying ''the Senate will begin a process for developing proposals that would allow for the safe reimportation of FDA-approved prescription drugs.''

I say to the majority leader, I hope very much that his decision on what the remaining schedule will be for this Senate will include an opportunity for us to, on the floor of the Senate, consider legislation dealing with the reimportation of prescription drugs.

We have bipartisan legislation in the Senate. We also have a House-passed bill that is on the calendar. As I indicated to the Senator from Tennessee last week, it is my intent, and the intent of others—Republicans and Democrats—to push this issue to the floor. But I hope we would not have to push it in light of the statement by the majority leader on March 11, 2004.

I ask the Senator to respond.

Mr. FRIST. Mr. President, I would be happy to respond. Really, we need to clarify because I know a lot of statements have been made to the press that I made a commitment to the distinguished Senator to have a vote on the floor. I think we need to go to the statement he just read and see what was actually both said and the commitment that was made.

Let me read the statement again. He just read it. The statement was—and this statement made by me—''the Senate will begin a process for developing proposals that would allow for the safe reimportation of FDA-approved prescription drugs.'' So I do not think it is right for Senators on the other side of the aisle to characterize that statement as a commitment to bring it to the floor, have a vote on the floor of the U.S. Senate. So that is No. 1.

No. 2, since that statement was made—and I think it was March 11—it was with the understanding to do exactly what was said; that is, to begin a process that is deliberate, that is thoughtful, that is inclusive, that captures the ideas of a whole range of U.S. Senators, with experts coming in to testify, to talk, to discuss, in committees, outside of committees.

Since March 11, a tremendous amount has been done. Again, I will

come back to this whole concept of the safe importation of FDA-approved drugs.

Again, I was looking—because I knew it was going to come up again over the course of today—and vigorous process has begun in the Senate. If we just look since March 11, the Senate HELP Committee, the Senate Judiciary Committee, and the Subcommittee on Investigations of the Senate Governmental Affairs Committee have all held hearings—and continue to hold hearings—on this matter since that statement on March 11.

The HELP Committee, the Health, Education, Labor, and Pensions Committee, the committee of jurisdiction, has not yet developed a consensus on any approach because they are struggling with this issue of putting safety first.

We know there is broad appeal for people who say: Let's bring in cheaper drugs from Canada, maybe from Malaysia, Thailand, India, Brazil, because people want less expensive drugs. I am sure all the polls and surveys say: Bring in those drugs; that means I can get cheaper drugs.

In good conscience, as someone who recognizes that a few bad pills—think back to a Tylenol situation where we had five pills, back in the 1980s, that paralyzed our system, a few counterfeit drugs. The FDA tells us right now they cannot guarantee that 60 billion pills coming to this country every year can be safe, given the structures we have today.

I say that because it is very difficult. That is the reason I don't think we ought to just bring it to the floor without that careful consideration which is underway today, working through the committee of jurisdiction. It is a popular issue. When people say ''politically driven,'' that throws it into partisanship, which I don't want it to be. I know that is not the intention of the authors. We have people on both sides of the aisle supporting specific legislation.

Before bringing it to the floor, I want to make absolutely sure, in this time where we only have 17 days left, when we have an appropriations bill we are presently struggling to finish tonight that talks about the safety and security of the American people, where we have the issue of intelligence reform, where we know we have to look at it internally and reorganize this body, the huge task to make sure we handle intelligence matters appropriately here, where we have a call from the President of the United States over the next 17 days to totally reorganize 15 intelligence agencies in the executive branch, focusing on the safety and security of the American people as it applies to intelligence, I just don't think by bringing this vote up to the floor, because it will be sort of the popularly driven vote without sufficient attention to safety first, that that is the right thing to do, given these 17 days.

We all want to lower the cost of prescription drugs. They are way too high. They are going up too fast. We want to use appropriate tools to do that. Reimportation, if it can be safe, may be one of those tools. Can it be done safely? That has to be the fundamental question. I know both sides of the aisle want the drugs to be safe. They don't want drugs coming in cheaply just so we satisfy the demand for cheaper drugs. The question is, How do we do that. We don't have the consensus yet, I believe, to bring it to the floor and have people voting up or down. And then we really don't have time on the floor as we look at safety and security, the issues of intelligence, intelligence reform, 12 appropriations bills, all due in the next 17 days.

Mr. DORGAN. If the Senator would allow me the courtesy of a reply in leader time, the Senator has taken a lengthy period of time to describe why this may not happen. Let me make a couple of observations.

The Senator knows what we discussed at midnight on the floor on about six or seven occasions prior to midnight on March 17. There were plenty of days left in the session at that point to consider a bipartisan bill on the reimportation of prescription drugs. We agreed there would be a process for developing proposals that would allow for the safe reimportation of prescription drugs, with the understanding that it was going to happen this year.

In the HELP Committee, which the majority leader referenced, there have been three markups scheduled and three markups cancelled. That is not a process that leads to allowing the reimportation of prescription drugs.

I have great respect for my colleague from Tennessee, but there is no safety issue here. Europe does this every day routinely in something called parallel trading. The question for this country will be, Will we decide to put downward pressure on prescription drugs by allowing reimportation or won't we? I believe earlier this year the representation was given to the Senate that we would be allowed the opportunity on the floor of the Senate to deal with this issue.

It is my determination, as with others in the Republican and Democratic caucuses, to push this issue. We need to make time for this in the coming days because this Congress is going to have to consider it. I believe we were given a commitment that it was going to be considered. Three markup sessions that were scheduled and then canceled is not the development of a process that would allow for reimportation. If those of us who have developed our bill on a bipartisan basis don't push it, we will end this session with no opportunity for reimportation of prescription drugs and no opportunity to put downward pressure on prescription drug prices.

This is not a partisan issue for me. It is not a political issue. It is about some poor soul out there this morning who is trying to buy prescription drugs and using his or her grocery money to do it because they are paying double, triple, quadruple, 10 times the price they pay when they go north of the border to buy the same drug put in the same bottle and made by the same company. It is unfair. We ought to do something about it. We have waited far too long.

I respect the majority leader. I simply wanted to point out there has to be time to consider this in the coming 17 days. There was in March, and there needs to be now.

I thank the Senator from Tennessee for his courtesy.

Mr. FRIST. Mr. President, I don't want things to be misrepresented. I want everybody to have a full understanding. The challenges in the HELP Committee do reflect the difficulty. When you are talking about safety, not just of cheaper drugs, if you give somebody a counterfeit drug that doesn't thin their blood and they have a stroke and they die, we have done a disservice. I don't want that to happen. I am not saying reimportation will cause that to happen, but I will say it is our responsibility to put safety No. 1.

I promise you, I will do that. It is an important issue. We agreed on March 11 to put a process in place. Three attempts by the HELP Committee were mentioned that were canceled or postponed. Let me just say, on Thursday July 22, the Subcommittee on Investigations of the Senate Committee on Governmental Affairs held a second hearing on purchasing prescription drugs. On July 21, the HELP Committee had planned to do the markup. It had to be postponed. That is correct.

On July 14, the Senate Judiciary Committee held a hearing on the implications—that is, safety. They also talked about intellectual property trade. But they specifically focused on the drug importation legislation.

On June 23, the Senate GOP HELP Committee had a briefing to help educate us broadly. It was not a markup but a briefing to educate us broadly to discuss, specifically, importation.

On June 17, the Subcommittee on Investigations of the Senate Committee on Governmental Affairs held a hearing where GAO released two new studies that documented how American consumes are able to readily obtain prescription drugs, including controlled substances, over the Internet without a prescription. In that hearing they talked about erroneous dispensing labels, suspicious packaging.

On May 20, the HELP Committee held a drug importation hearing to examine the challenges of developing and implementing drug importation legislation.

The administration has a specific task force on drug importation that was set up as a product of the Medicare bill that we passed on this floor. They have not yet issued their final report. The report will incorporate testimony—this is what the administration is doing—by consumer groups, by professionals, by safety experts, by the FDA, by leading representatives from

health care purchasers, from academic scholars. The task force has not yet released their report to us or to the American people. We await that. It is a very important initiative by the administration that we mandated to them. Off the Hill, a number of forums have been held since March.

I mention all of this because I don't want the impression left that this issue, which is important to the American people—and we want less expensive drugs, but we want them to be safe drugs—is not being addressed by this body or other people concerned. I will continue to work with the other side. I know there will be a huge push in these next 17 days to get this up for a vote. I just don't think with the issue of safety and the amount of attention it is going to require on the floor of the Senate, when we are talking about the safety of those seniors and others who depend on these lifesaving drugs, I don't think we can address it adequately in the next 17 days.

I yield the floor.

RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDING OFFICER (Mr. ENZI). The Democratic leader is recognized.

ESCALATING COSTS OF MEDICARE

Mr. DASCHLE. Mr. President, I ask unanimous consent that a USA Today story entitled ''Medical costs eat at Social Security'' be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From USA Today, Sept. 14, 2004]

MEDICAL COSTS EAT AT SOCIAL SECURITY

(By William M. Welch)

WASHINGTON.—With a new Medicare drug benefit set to begin in 2006, Americans 65 and older can expect to spend a large and growing share of their Social Security checks on Medicare premiums and expenses, previously undisclosed federal data show.

Information the Bush administration excluded from its 2004 report on the Medicare program shows that a typical 65-year-old can expect to spend 37% of his or her Social Security income on Medicare premiums, copayments and out-of-pocket expenses in 2006. That share is projected to grow to almost 40% in 2011 and nearly 50% by 2021.

Unless Congress does something to hold down costs confronting seniors, the official projections suggest that health spending will consume virtually the entire amount of Social Security benefits when children born today reach retirement age.

The table was provided by the Department of Health and Human Services at the request of Rep. Pete Stark, D–Calif. Stark, who opposed the drug benefit enacted last year at President Bush's urging, sought the data after noticing that a chart included in previous annual reports was not in the 2004 version.

Stark charged that the administration threw out the chart because it shows future Medicare costs under the new law will erode Social Security checks.

''It doesn't look good to lie to grandma, so the Bush administration has withheld information and come up with other creative ways to mask the damage they have done to Medicare,'' Stark said.

Richard Foster, Medicare's chief actuary, said the program's trustees—administration officials and appointees—replaced the chart with a graph that lacks specific numbers in an effort to show that the increased costs come with a new benefit.

''The table makes it look like beneficiaries are worse off than ever, and that's not the case,'' Foster said.

Bill Pierce, a spokesman for Health and Human Services Secretary Tommy Thompson, said the administration wasn't trying to hide anything. ''We have a new program, and it's got to be reflected with new information,'' he said.

The drug benefit is voluntary. It requires a premium, estimated at $420 a year initially, and substantial copayments. The administration estimates participants will save about 50% on their drug bills.

Critics of the law say the new figures show it does little to restrain drug costs. The law prohibits the government from negotiating lower drug prices.

The data ''ironically are the clearest proof of the new Medicare law's failures and the resulting squeeze on seniors' pocketbooks,'' said Ron Pollack, head of Families USA, a health advocacy group.

The disclosure comes just days after the administration announced Medicare premiums will rise by 17% next year due to rising health costs.

Foster is at the center of another dispute over missing data. He says he withheld from Congress higher cost estimates for the Medicare law last year, at the direction of a Bush appointee who headed the Centers for Medicare and Medicaid Services. Congress approved the law based on a 10-year, $400 billion estimated price tag. Foster's estimate was $540 billion.

Mr. DASCHLE. Mr. President, I appreciate the opportunity to listen to the colloquy both Senators DORGAN and FRIST have engaged in. Coincidentally, I had intended to come to the floor to talk about the new report that was released on the front page of USA Today citing the dramatic increase in Medicare costs and the impact these costs will have on seniors' Social Security benefits.

In 2005, 19 percent of Social Security benefits are going to go to Medicare expenses. But according to the USA Today article:

a typical 65 year old can expect to spend 37% of his or her Social Security income on Medicare premiums, co-payments, and out-of-pocket expenses in 2006. That share is projected to grow to almost 40% in 2011 and nearly 50% in 2021.

According to the article, by 2026, over half of a senior's Social Security benefits will be consumed by cost increases under Medicare, including cost increases associated with the new part D drug benefit.

Think about that: we are on pace to see nearly half of the benefit seniors depend on under Social Security consumed by cost increases under Medicare.

Unfortunately, I think the Senate and the country took a step backward when the Senate made the decision last year to pass the legislation it did. Part of the reason for these increases is that the new law will do almost nothing to bring down the cost of prescription drugs. Another reason is that the law and this Administration is overpaying HMOs.

There are ways we can address the dramatic cost increase this chart represents, ways to protect seniors' Social Security and lower drug prices. The first is to do what Senator DORGAN has suggested, and that has bipartisan support: allow reimportation of drugs from Canada.

Canada has exactly the same drug, the same corporation, the same everything, and yet the drugs available there are oftentimes 50 to 60 percent cheaper than they are in this country. If a senior citizen can go to another country to acquire those drugs, why in heaven's name would we prevent them from doing so?

I have heard the distinguished majority leader say that safety is a factor and that we ought to consider safety as we consider providing access to these drugs. Well, I would say cost is a safety issue as well. I have talked to countless seniors in South Dakota who are rationing their own medication because they cannot afford it. If, based on cost, our seniors are not able to take the drugs they need, no one can tell me that is safe. When one rations drugs, when one does not take them all, when one splits pills, when one makes a choice between nutrition and medicine, how safe is that? That is exactly what is going on today.

We've already made the decisions to ensure these drugs will be safe. We should not have to worry about another report or another bureaucratic response. Our seniors are not prepared to wait any longer. We have debated this long enough. Reimportation ought to be the law of the land today. That is one way, perhaps the easiest, simplest, and most compelling way, to deal with the cost issue immediately.

There is a second way to address rising costs. A second way is to do for seniors what we already do for veterans and for our military. What do we do for them? The Government negotiates with the drug companies to bring down prices.

In most cases, drug prices for veterans are at least 60 percent lower than they are for seniors. The only reason they are that much lower is because the Government has the authority to negotiate these lower prices.

Why in heaven's name would people object to extending this concept to seniors as well? On that issue, the drug companies won; we lost. There is a specific prohibition against Medicare negotiating lower prices for seniors, and I think that is an outrage. We ought to pass legislation to allow Medicare to negotiate lower drug prices.

The third thing we can do is to pass legislation that has at least two forms today—and there may be other ideas. Senators STABENOW and KENNEDY have offered a very good bill that would say we cannot increase Medicare premiums beyond the cost of living next year,

hold it at that. I have a bill that would do something similar. It says premiums for Part B and Part D of Medicare cannot exceed 25 percent of the cost-of-living allowance provided to Social Security beneficiaries. Both of these bills would help keep costs down for seniors.

So we do not lack ways in which to address the cost issue. What we lack is will, a commitment, a determination to bring the issue to the floor.

We all lament the dramatic increase in the cost of health care, but we are not going to solve it unless we are willing to take some action. We can go through more hearings, we can go through a lot more reports, but reports and hearings are not going to get the job done. This Senate needs to act.

I am amazed at the degree to which the finger-pointing continues to go on and on, with the tired and lame excuse that it is somehow the Democrats' fault that we have not addressed reimportation, that we have not addressed any of the other pending issues. We have had specific commitments on mental health parity and that bill is now unlikely to be addressed, even though we have had very specific commitments to take up mental health parity in the Senate. That has not happened because there is a lack of commitment and energy on the other side.

We have not been able to deal with the FSC bill, the welfare reform bill, the tax bill, the highway bill, in large measure because our Republican friends have not been able to agree among themselves. So all of these and other issues continue to languish. This is a do-nothing Congress and in large measure it is do-nothing because they have done nothing to bring themselves together and force these issues on to the Senate floor to allow us the opportunity to vote and to do the right thing.

Senior citizens deserve better than that. Those who are in this country looking to the Senate for answers on all of these and other issues deserve better than that. I hope we can make the most of what limited time we have remaining so we can do better than that.

THE FEDERAL GOVERNMENT MUST KEEP ITS EDUCATION PROMISES

Mr. DASCHLE. Mr. President, throughout America, another new school year is beginning. As children settle into new classes and parents meet their children's new teachers, we are reminded once again of the importance of public education to America's future.

Good, strong public schools are not a Democratic or a Republican concern; they are a cornerstone of American democracy. They are what has helped America create the most innovative, powerful economy the world has ever known and they are essential to the survival of the middle class in this country.

Nearly 3 years ago, Congress passed the No Child Left Behind Act containing the most far-reaching changes in Federal education policy in nearly 40 years. Recently, States released their second annual No Child Left Behind report cards, showing how their schools are measuring up under the new law. This afternoon, I would like to talk briefly about how the Federal Government is measuring up—whether we are keeping the promises we made under No Child Left Behind and other important education laws.

All of us know that, if we mention No Child Left Behind at a town hall meeting, we are just as likely to hear boos as we are to hear applause. Why is that?

One reason is because of some basic design flaws. What seemed to work well on paper, we are discovering, may not work as well in practice. Parts of No Child Left Behind need fine-tuning.

There were also some problems, early on, with the way the administration was implementing the new law. Fortunately, some of those problems are starting to be addressed. Yesterday, Senator KENNEDY introduced legislation to make sure the No Child Left Behind Act is implemented correctly. No one understands the No Child Left Behind Act better, and no one worked harder with President Bush to pass it. We ought to have a serious debate—and a vote—on Senator KENNEDY's bill this year.

Unfortunately, the administration and Congressional Republicans remain unwilling to acknowledge one of the biggest impediments to the success of the No Child Left Behind Act: inadequate resources.

Our Republican colleagues cite numbers to show that education funding is increasing. With all due respect, their numbers miss the point. The question isn't: Is the Federal Government spending more on education? The question is: Is the Federal Government providing States with the resources they need to make the No Child Left Behind Act, and other Federal education mandates, work? The answer is no. The President's budget for this year provides the smallest increase in education in nearly a decade. Over the last 3 years, the President's budgets have shortchanged No Child Left Behind by $26 billion.

We all know that more money alone won't make schools better. But we also know that money does matter. It costs money to make the changes the No Child Left Behind Act requires. It costs money to put a highly trained teacher in every classroom. It costs money to test every student, every year, in grades 3 through 8. It costs money to produce and distribute the school report cards that are required under the new law, and to collect and analyze all the data that go into those report cards.

The No Child Left Behind Act aims to close the achievement gap by raising the educational achievement of poor and minority students and students with disabilities. This is a noble and necessary goal. Yet, year after year, the programs that actually help close that achievement gap are the very programs that are the most seriously underfunded. In the President's budget this year, 80 percent of the total shortfall in the No Child Left Behind Act is in Title I programs. The children and schools that need the most help are instead targeted for the biggest funding shortfalls.

Shortchanging Title I and other parts of the No Child Left Behind Act means denying schools the resources they need to succeed—then punishing them for not measuring up.

Refusing to fund No Child Left Behind adequately also undermines local control of schools. Rapid City, SD, is a good example. Parents and educators in Rapid City have come up with an innovative plan for a new, year-round school that would provide extra help to low-income children. It would also work with the children's parents so they can be better partners in their children's education. It is exactly the kind of intensive help that is needed to close the achievement gap. But Rapid City doesn't have the Title I resources to make it a reality.

The underfunding of the No Child Left Behind Act is a major reason that legislators in 17 States—many of them Republican-controlled States—have endorsed bills protesting the law.

The President's budget also provides less than half of what Congress agreed nearly 40 years ago was Washington's fair share of special education costs.

The National Council of State Legislatures estimates the cost of unfunded Federal mandates will hit an unprecedented $34 billion this year. The two most expensive unfunded Federal mandates? No Child Left Behind, and special education. In South Dakota, the shortfall this year just in these two programs is $61 million; $30 million for No Child Left Behind, and $31 million for special education.

Accountability is critical. But accountability has to work both ways. If the Federal Government passes a law, we ought to fund it adequately—not push the cost off on State and local taxpayers.

In South Dakota, we have a State law that allows school districts to ''opt out'' of the State freeze on local property taxes if they can't provide basic educational programs and still balance their budgets. These are not cases where communities choose to pay higher taxes in order to pay for extras. Before districts can even seek an opt out agreement they have to have already made significant budget cuts.

The number of districts seeking such agreements has increased dramatically since No Child Left Behind was passed. Today, 46 percent of South Dakota school districts are operating under opt out agreements. Think about that: Nearly half the school districts in South Dakota are raising local property taxes, in part to make up for the

Federal Government's failure to keep its education promises.

Custer is one those communities. It is a small ranching town in western South Dakota. Last year, Custer went to a 4-day school-week to balance its budget—and it still ended the year with a deficit. This year, Custer has to find an extra $300,000 to replace the 70-year-old boiler in its elementary school. It has no idea where the money will come from.

In Faith, SD, the town's only school building was condemned in June. The people of Faith have no idea how they will replace their school. The local tax base can produce only a fraction of the cost. For now, the children of Faith are attending classes in double-wide trailers.

During the debate on No Child Left Behind, I fought to include a Rural Education Assistance Program to address the unique circumstances of schools in small towns like Custer and Faith. That program, too, is underfunded in the President's budget. In South Dakota alone, the shortfall in rural education this year is $700,000.

Nearly every district in our State has laid off teachers in the last few years. They have cut advanced placement courses, art programs, foreign languages, vocational education programs—you name it. Wall, SD, has eliminated its entire middle-school staff. High school teachers in Wall now teach high school and middle school. Rural districts are forming consortia to share administrators and education specialists.

Across the country, schools are laying off teachers and other employees, and cutting programs, bus routes, textbook purchases, and other expenses. Many communities are rationing Title I funds—limiting them to elementary schools only—because, they say, if they had to include high schools, there wouldn't be enough left for elementary schools to make a difference.

The refusal by Republicans in Washington to adequately fund Federal education programs is not the only reason many public schools are having a difficult time balancing their budgets. But, at a time when many State and local governments are still struggling, these Republican unfunded education mandates are making a difficult situation worse in many places.

And it is going to get much worse. That is not speculation. The Bush administration's own internal budget documents project more than $5.5 billion in cuts for elementary and secondary education in fiscal years 2005 through 2009. Those cuts are more than six times larger than the education increases they are calling for in this election year. That is from the President's own Office of Management and Budget.

If we really couldn't do any better, that would be one thing. But this is a matter of choice, not necessity. At the same time the President and Congressional Republicans are telling us that we can't afford—or don't need—to keep the education promises the Federal Government makes, they insist that Congress needs to create tens of billions of dollars in new tax breaks for millionaires and wealthy corporations. That is the wrong choice for America. Real reform requires real resources, otherwise it is just an empty slogan, or worse—a set-up for failure.

As they start this new school year, most children probably aren't paying any attention to what goes on in Washington. But what we decide here about education will have a profound effect on their future. During the education appropriations debate, Democrats are going to fight to keep the education promises our Government has made. We hope our Republican colleagues will join us—for our children's future, and for the future of our democracy.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of morning business for debate only for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the second 30 minutes under the control of the majority leader or his designee.

Mr. REID. On behalf of Senator DASCHLE, I yield 10 minutes to the Senator from Illinois, and following him 15 minutes to the Senator from Massachusetts, Mr. KENNEDY.

The PRESIDING OFFICER. The Senator from Illinois.

HEALTH CARE IN AMERICA

Mr. DURBIN. Mr. President, yesterday President Bush went to Battle Creek, MI. The purpose of his visit, of course, was in preparation for the election but also to raise a critical issue, and the issue is the same one we have discussed this morning: health care in America. President Bush was outspoken in attacking Senator JOHN KERRY for having the nerve to suggest we need to change health care in America.

In criticizing JOHN KERRY, President Bush, quoting from the morning newspaper, said JOHN KERRY's proposal would be ultimately a Government takeover of medicine. It would be a massive, complicated blueprint to have our Government take over decisionmaking in health care. Bureaucrats would become the decisionmakers.

Once again, the Republican Party and President Bush wave the bloody shirt that if anyone suggests a change in the health care system in America today that they are calling for socialism and more bureaucracy.

What the President refuses to acknowledge and what the leadership on the Republican side of the Senate refuses to acknowledge is the health care system in America is in crisis. Since this President took office, census figures show 3.8 million more Americans are uninsured. In addition, the Kaiser Family Foundation study released last week said families are paying on average $1,000 more out of pocket for health coverage this year than in the year before the President was elected.

It tells us that health care is becoming more expensive, more exclusive, and, frankly, that the average working family doesn't have a fighting chance under this system. What is the response on the Republican side of the aisle? What is the response from President Bush? More of the same. Don't rock the boat. We cannot say anything negative when it comes to the enormous profits that are being garnered by the drug companies and the HMOs.

But families and businesses across America understand the reality of health care today. When the Republican leader comes to the floor of the Senate and announces that we don't have time in the remaining weeks of the session to consider the issue of reimporting drugs from Canada or other countries, what he has basically said to thousands of seniors and families across America is that we are going to protect American drug companies and their profits at any cost. That is what has happened with our own prescription drug plan for seniors, and it is what is happening for the agenda for the Senate.

Look at what happened to premiums across America. On this chart is a trendline. I don't have to go year by year. Ask any employer in America what has happened to health insurance premiums and they will tell you that every year it is more expensive. I go around Illinois and meet with good, solid, God-fearing Republican businessmen who tell me: Senator, we cannot take it anymore. There is no way we can deal with these annual increases in health insurance. What are you doing in Washington about this? The honest answer is, under the Bush administration and the Republican-controlled Congress, absolutely nothing. So what do these businesses do? They will tell you over and over again they have no choice. How big an obstacle is health care cost in hiring new employees? And 78 percent say it is an obstacle. They cannot hire a new person because the cost of health insurance is so high.

What about the health insurance companies, the HMOs? How are they faring as these health insurance premiums go up? Do the premium increases just reflect the fact that it costs more to provide health care? Look at their profit margins. HMO profits from 2002 to 2003 went from $5.5 billion to almost double that amount, $10.2 billion.

You ask yourself, why is the President criticizing JOHN KERRY for bringing up meaningful health care reform

to help working families and help small businesses and large businesses as well? Because the HMOs don't want anybody to rock the boat. The Bush administration, whether they are dealing with the drug companies or HMOs, is going to protect their profit margins, even at the expense of adequate health care for Americans.

When you take a look at what JOHN KERRY proposed, I don't believe it is radical. Would you be in favor of reducing the tax cuts for people making over $200,000 a year and taking that money and expanding the coverage of health insurance in America? Is that a radical idea? No, that is a commonsense idea. People making over $200,000 a year are not going to miss that tiny tax cut as a percentage of their income. But when you put that money together, you are able to address some of the serious problems facing us.

I believe President Bush forgot the obvious. Average working people cannot keep up with the cost of health insurance and health care in America. His administration has done nothing, absolutely nothing, to deal with it. What do they do when JOHN KERRY comes forward and says it is time for us to have a bipartisan discussion on bringing the costs of health care under control and expanding coverage? President Bush goes to Battle Creek, MI, and accuses him of socialized medicine, huge bureaucracies. He says, ''A Government takeover of medicine.'' Those days have passed.

It has been over 10 years since the Congress and the Government in Washington have had a serious conversation about the cost of health insurance. In that period of time, the private sector has been in charge. The private sector has done to health care what you would expect them to do. They have raised the cost and reduced the risk. So every year you find your health care premiums going up and coverage going down while their profits go through the roof. If you want 4 more years of the same, you will have a chance to vote for it on November 2.

Also, consider that Congress—this Chamber, the Senate, and across the rotunda in the House—has failed to meet our responsibilities under Republican leadership. When we have the Republican leader come before us today and say we don't have time to deal with the reimportation of drugs before we adjourn for a recess this year, trust me, if the Republicans continue in control of this Chamber, there will be another excuse next year.

Despite the best efforts of Senator DASCHLE, Senator DORGAN, Senator KENNEDY, and so many others, we are not going to have an opportunity to help people across America deal with the soaring costs of health care until there is a change in leadership and attitude. It is time for business and labor, Republicans and Democrats, to come together to face this health care issue and to do it in a bipartisan fashion. We can do it, but we need a change of leadership to achieve it.

Mr. President, I yield the floor.

Mr. REID. Will the Senator from Massachusetts allow the Senator from Michigan 2 minutes?

Mr. KENNEDY. I am delighted to.

Mr. REID. Senator KENNEDY still has 15 minutes. The Senator from Michigan has 2 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I thank my colleagues very much. I thank the Senator from Massachusetts for allowing me to take 2 minutes to follow up on the comments of the distinguished Senator from Illinois concerning what is happening on health care and reimportation.

I just came from a gathering with colleagues on both sides of the aisle and the House of Representatives, speaking out again on why we need to pass that bill immediately. We want to lower prices. We need to allow pharmacists to do business with pharmacists across the border in Canada or other countries where it is safe, and we can drop prices in half.

I also raise one more time this issue of the Medicare premium increase that was announced by the administration over a week ago at the end of the day, on a Friday, in the middle of a hurricane, unfortunately, right after the Republican convention, when the President indicated he was going to lower pricing for seniors for health care, and then we saw an announcement of the largest premium increase in the history of the country—17.5-percent premium increase. Social Security is only going up by approximately 3 percent this year, which means seniors will be moving backward, being put in a real hole as a result of what is happening.

I am pleased to have introduced legislation along with my colleague from Massachusetts and other Members. We welcome everyone's support and cosponsorship, and I hope we can get this taken up as quickly as possible. There will be a 17.5-percent increase in Medicare premiums, and a piece of that, as a result of policy changes to privatize Medicare, is not acceptable. As I indicated before, Social Security is going to go up about 3 percent. Yet, we are going to see the highest increase in Medicare's history in premiums.

The majority of seniors have not asked to privatize Medicare. They have not chosen that option. They should not be paying for it. I urge my colleagues to join us to fix that before we leave this fall.

Mr. REID. Mr. President, I yield our additional 5 minutes to Senator KENNEDY, for a total of 20 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, first, I commend our leader, Senator DASCHLE, for his presentation this morning and for his constancy and leadership in attempting to bring reimportation legislation before the Senate. He has supported the bipartisan legislation. He reminds us about the importance of it. I am a strong supporter of that legislation. I am disappointed, as Senator DORGAN is, that we have not been able to address it.

This legislation would have an important impact in terms of grabbing a hold of the problem of the escalation of prescription drug prices. The issues on safety have been addressed. I commend our leader for recognizing this and bringing it to the Senate, and I thank Senator DORGAN for his persistence and leadership. Once again, I commend as well my friend and colleague from Michigan, DEBBIE STABENOW, who has been a leader in pursuing a legitimate prescription drug program for years—certainly since she has been in the Senate. I thank again Senator DURBIN from Illinois for his very eloquent summation about where we are in terms of our health care challenges in this country.

I was somewhat surprised, although I should not have been, reading through the President's statement yesterday.

I ask the Chair if he would let me know when I have 3 minutes left, please.

I was surprised, listening to the President talk about the health care challenges we are facing in this Nation. What troubled me about the presentation is that the President went on to misrepresent what my friend and colleague stands for, and basically what I stand for, in the health care choices that are before this Nation. Then, in a technique which some of us have gotten used to here in the Senate—but certainly I think it is unworthy in the Presidential debate—to misrepresent, distort the position of the opposition, and then to differ with it. That is a debate technique which is used here frequently, but is certainly not, I think, fitting in terms of the office of the Presidency of the United States.

In his comments he mentioned that today we are going to hear a lot of talk about a difference of opinion. It starts with: You know what you expect from a Senator from Massachusetts.

I imagine he was, in all respect, making a reference to the longstanding position I have held which I think is still absolutely essential for this country; that we have a universal, comprehensive program that is affordable, dependable, and reliable, at a price that working families, middle-income families can afford. That has been my position. I have offered legislation for more than 35 years to try to be able to do it. We have been unable to do it and I think the American people have suffered.

When I was reading through the comments of the President, they had a wisp of the kind of comments made 35 years ago when a comprehensive, universal program was proposed. At that time the opponents said, Can you imagine, this bill to have a universal, comprehensive program will cost $100 billion?

Let me remind America, this year we are going to spend $1.8 trillion, and $500

billion of that $1.8 trillion has been the increase of the cost of health care for American families since this President assumed office. Hello? Hello, Mr. President? Five hundred billion dollars, half a trillion dollars in increases, and what do you get for it? I will come back to that.

The basic point, so all of us know what JOHN KERRY is fighting for, is to let the American people buy the same kind of insurance policy we have. Who are we? We are Members of the Congress of the United States. We are Senators of the United States. We are executive members of the U.S. Government. We have a very good program. JOHN KERRY believes that same program ought to be made available to the American people. But President Bush does not, nor does the Republican leadership. That is the basic difference.

We know we have a very good program. There is not a Member of this body, not a single Member of this body who doesn't have the Federal Employees Insurance Program. It is an excellent one. We pay 25 percent of the premium and the taxpayers pay 75 percent. That is true with regard to the President of the United States. I wonder, for all those people who were out in that crowd yesterday listening, what percent are they paying for their premiums? I doubt if 2 percent or 3 percent or 4 percent of the crowd he was talking to have the same quality of health insurance we have in the Senate.

It bothers me when we have statements which misrepresent what my friend and colleague is fighting for, which I believe in very deeply. That the American people are entitled to and should have the same kind of health insurance everyone in this body has. That is the issue.

This President says no to that. The Republican leadership says no to that. In the meantime, what they do reminds me very much of what they did with regard to the Iraqi policy. They misrepresent, they distort, and they basically deceive the American people with regard to the facts of the opposition. That is what they have done with regard to Senator KERRY's position.

We have a campaign on. I was here during the debates on the Medicare program. We had legitimate debates on it. It is true the Republicans overwhelmingly opposed Medicare, as they opposed Social Security. So when you listen to a lot of our colleagues—including this administration—talk about how they are for comprehensive universal health care, we ought to say: Hello? When did that come about? We haven't heard that for the last 4 years.

I challenge any Republican to identify the legislation that has been advanced, put before the Senate, that would provide the kind of comprehensive, universal health care coverage at the cost people can afford. It is not there. This administration has not fought for it, doesn't believe in it, and is distorting and misrepresenting the program JOHN KERRY has offered.

There has been reference today to ''Medical Costs Eat At Social Security.'' I wonder if the President mentioned that yesterday. When the actual publication of the Medicare actuaries came out, they designated these increases, not by dollars, but by lines. That is because this administration has been hiding the costs of their various programs. It even says here at the bottom of the article which Senator DASCHLE has had printed, that Foster, who is one of the principal spokespersons for the administration ''is at the center of another dispute over missing data. He said he withheld from Congress higher cost estimates for the Medicare law last year. . . .''

Hello? Here it is, the administration trying to hide the costs of Medicare, and complaining, out in Michigan, about the costs of Senator KERRY's health care program. The article says Foster ''withheld from Congress higher cost estimates last year at the direction of a Bush appointee.''

A Bush appointee? Hello, Mr. President, why haven't you mentioned this in your comments about Senator KERRY?

That would be sad enough, if it weren't for the real results of these increases and in particular the failure of this administration to get a handle on health care costs and on prescription drugs. With the passage of what I call the good-for-nothing Medicare bill the President referred to as—well, he talks about:

> I was sent to Washington to do something, so we modernized Medicare . . . [Listen to this, so we modernized Medicare] with the Medicare bill that was passed just this last year.

We will come to that in a moment. But let's look at what is happening to the increased costs on Social Security. I draw your attention to this chart entitled ''The Bush Medicare Program, Health Costs Impoverish Senior Citizens.''

These are not the figures of the Senator from Massachusetts. These are the figures of the Office of the Actuary, Department of Health and Human Services. The chart they used in the article, ''Medical Costs Eat At Social Security,'' is for a 65-year-old. This is for an 85-year-old. These are the members of the ''greatest generation.'' These are the men and women who fought in World War II, the great generation that lifted the Nation out of the Depression, fought in World War II.

By 2006, 43 percent of their Social Security benefit is going to be used to pay for the premium and the copayments under Medicare. In 2016 it will be 52 percent. By 2026, it will be 65 percent. That is 43 percent by 2006. How are our seniors going to do it? Well, Senator KENNEDY, we have had an increase in the cost of health care, and this has been terrible but this administration has tried to do something about it. Baloney. This administration has done nothing about the health care costs that are out of control.

This chart shows that health care costs are out of control. This chart indicates the increase in the premiums that we have seen during the period of 2001 cumulatively to 2004. The blue indicates the CPI during that period of time. What we have seen cumulatively is the CPI has gone up 9.2 percent, and health care costs, 59 percent.

Costs are out of control. Where is the administration's answer to the cost of the control? Why aren't we debating that on floor of the Senate after we do homeland security? Why aren't we doing it? We have an opportunity to do something about it with the reimportation. You just heard the majority leader say we were not going to consider it at this time.

The President says costs are out of control. We say OK. Let us do something. Let us make a downpayment and try to get a handle on prescription drugs. The majority leader and the President say: No. You can't do that. We are not going to let you do that. We are going to block you here in the U.S. Senate.

Here it is with regard to the general costs being out of control in relation to the CPI.

Let us look at health care costs. Family coverage costs have increased in 2004. It was $6,348; now it is $9,050. For single coverage in 2000 it was $2,400; now it is $3,600.

That is what has been happening over the period of the last 3 years under this administration. What is their answer? No. The one thing we can do about getting a handle on costs and we are not going to let you do it; we are not going to do reimportation.

Look at the Bush record with regard to the price of prescription drugs. This chart, based on data from HHS, CPI and the Bureau of Labor Statistics shows the cumulative changes in the CPI and the cost of prescription drugs from 2001 to 2003. The CPI grew at 6.8 percent over the period of 2001, 2002, and 2003, and the cost of prescription drugs at 51.5 percent. How are our seniors going to do it? They can't do it. They make the choice between nutrition and prescription drugs, between heating their homes and prescription drugs, between food and prescription drugs, in my part of the country, in walling off part of their houses in the wintertime because they can't afford heating oil and prescription drugs. It is happening every single day. Can't we do something about it? Sure we can, as we have pointed out.

The costs of these prescription drugs are a half or even a third of that in other places around the world.

We have ways to deal with both the costs as well as the safety. But no, the administration won't do it. We see that the administration has basically abandoned any effort to do something about getting a handle on costs. We have seen the total amount that has been expended in this country increase by $500 billion, from $1.3 trillion to $1.8 trillion.

We have seen the President talking about the opposition while JOHN KERRY is trying to get a universal comprehensive program. It ought to be a matter of right in this country. The President says no. And we have denial on the floor of the Senate on the day after the President has spoken of doing something about getting a handle on costs, and this administration wants 4 more years? Talk about irresponsibility. They mislead us in going into Iraq. They mislead us in the use of intelligence. They mislead the people of Iraq, and they have done the same thing on health care. How long are we going to take it? What do the American people need?

Here it is with the number of the uninsured—large and rising by 1 million a year in the increase of the uninsured. Look at this. That is the census figure. Look at this. Seventy-three million of our fellow citizens are without health insurance coverage at some point in this year—for at least 1 to 4 months. This is why the Americans who have health insurance know that they are a pink-slip away from losing it.

We have seen an explosion of part-time workers. Do you think they get health insurance coverage? Absolutely not; a fraction of them maybe, but a great majority don't. We see the whole movement away from the employer-based system to part-time work. That is what is happening out here across this country.

Under the Medicare bill, 3 million American retirees are going to be dropped and low-income seniors will pay under newer financial provisions. Premiums are going to be affected and 15 million seniors are going to be disadvantaged under current Medicare. That is the situation. This is the Medicare bill that was passed.

Look at what has happened. Here we have excess payment to HMOs of $46 billion and a $139 billion windfall profit to the drug companies. If you want to know where expenditures are, if you want to know what is costing more for the average taxpayers, we have given $139 billion over the next 8 years as windfall profits to the prescription drug industry, and we have given the HMOs $46 billion.

My fellow citizens, if you want to go out and invest in something, go out today and invest in HMOs and prescription drugs because we have guaranteed it.

Talk about small business—I wish small business had that kind of guarantees and Government payouts. Talk about competition, it doesn't exist in that Medicare bill. That is what the problem is. The drug industry is doing well and the HMOs are doing well but the average workers are not doing well.

Let us level with the American people about what the real debate is about in this Congress. Let us not distort and misrepresent the position of the opposition. I know the Republicans were against Social Security, I know they were against Medicare, and I know they were against a comprehensive prescription drug program that would have made a difference. We had a good one which actually got 76 votes. It was bipartisan. It was not this program.

But then the hand of the White House ruled and we have massive giveaways to the drug industry and to HMOs. That is why we see the increase—a failure of leadership on health care in the last 4 years, and the denial on the floor of the Senate to our Democratic leaders and to this party to do something about it.

We want to do something about it. We have a bipartisan bill to do something about it. Why, Mr. President, when you make those speeches out there in Michigan, why don't you call up the Republican leadership and do something about it?

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

HEALTH CARE

Mr. BENNETT. Mr. President, I came to the floor to speak on another subject, but after listening to the Senator from Massachusetts I want to try to respond to some of the comments he made.

There is no question that we have a health care crisis in this country. There is a great deal of disagreement as to why. There is no question that the issue is tremendously complicated and does not lend itself to a solution with a single silver bullet. I am interested at the suggestion that the silver bullet to solve the rising health care costs is to allow drug reimportation. We have had that suggestion made here this morning. I would like to talk about that for a moment.

The evidence is that drug importation or reimportation, whichever phrase you choose, does not, in fact, produce major savings, except on an anecdotal basis; that is, one senior here or there might receive a significant benefit but overall the benefit of importation is very limited.

A recent London School of Economics study shows that parallel trade in drugs in Europe where they have importation back and forth across the borders has resulted in a savings of less than 2 percent by consumers. A World Bank study found that parallel trade in Sweden cost consumers as much as it saved them after accounting for reshipping and repackaging costs as well as profits for the traders.

So to stand here and say, whatever the decibel level, that we can somehow solve the problem if we just adopt the reimportation legislation that is being proposed is to go in the face of previous experience. I would be willing to adopt this just to prove the point if there were not a downside connected with it that our friends on the Democratic side do not talk about.

I have a sister-in-law who is a very aggressive shopper. She is a senior. She is very familiar with the Internet. She makes sure she gets the best deal in every circumstance. She takes prescription drugs and gets on the Internet and discovers that she can find a price cheaper on the Internet, if she buys overseas, than the price she can get at her local druggist.

She came to me and asked: Bob, is this a good idea? Now, I am not one of your constituents. I don't want a political answer. I am your sister-in-law who is trying to save money, and I want the truth. Is this a good idea for me to get my prescription drugs in Canada where the prices are so much lower?

I said to her: Based on what I know, if you get on a bus or a plane and drive to Canada and walk into a Canadian drugstore and buy the goods over the counter, chances are you will get reliable drugs at a lower price, and that will be the thing for you to do. On the other hand, if you get on the Internet and order these drugs to be shipped to you across national boundaries, there is no guarantee whatever that the drugs you will get will be the drugs you think you are getting.

Indeed, if we are going to talk anecdotal evidence, as we have been in the Senate, there are plenty of examples of people who have gotten on the Internet, gone to a Web site that appears to be in Canada, purchased drugs in Canada at a lower cost, and said to themselves: Aren't I a hero for being able to lower my drug costs so much.

Then when the drugs arrived, they found that while they may have been transshipped from Canada, they were produced in Bangladesh or Nigeria or wherever else in the world. There is absolutely no guarantee the drugs they are buying at such attractive lower prices are, in fact, the drugs that are outlined on the label of the bottle or box they receive.

Indeed, one of the interesting things that has started to happen is not only are we seeing degradation of the quality and accuracy of drugs being shipped across borders as a result of Internet sales, the Canadians themselves are beginning to lose control of the quality in their pharmacies. There are so many different sources of drugs now available that even within the network of drug distribution points within Canada, they cannot be sure of the purity and state of their drugs.

I am interested that there are those in the Senate who have said the drug companies are making enormous profits, and all we need to do is cut out those profits, lower the price of drugs, and everything will be fine, and at the same time they are insisting we have to have more research. What has lowered the cost of health care on a per person basis? It is the introduction of new wonder drugs. Where did the new wonder drugs come from? They do not come out of the air. They do not come as a result of Federal legislation. We cannot pass a bill in the Senate that says there will be a new drug that will solve this, that, or the other problem. Drugs come as a result of research.

We talk about the profits of the drug companies. I am not here to carry any water for the drug companies, but I have been a businessman long enough to know that profits that show up on a balance sheet or a profit-and-loss statement do not automatically go immediately into the pockets of the Donald Trumps and the Warren Buffetts of the world. Profits get retained in companies. There is an accounting term for it called retained earnings.

What do companies do with those retained earnings? They invest them in research. It takes roughly $1 billion to determine whether a new idea for a drug will produce a drug that works. A company has to have enough financial strength that it can put $1 billion into research to produce one drug.

That is expensive enough. You can spend millions of dollars on a drug that does not work before you know it is not going to work. So the amount of profits they will make on the drugs that do work not only have to recover the cost that it took for the drug that does work, but it has to recover the millions again and again for the drugs that do not work.

To suggest there is a silver bullet to the rising health care costs, and that the silver bullet can be found in beating up the drug companies and buying drugs from Canada, is to demonstrate vast ignorance of the way the free market really works.

Let me make, again, the standard statement that I make over and over in the campaign. I am not questioning the patriotism of my friends across the aisle. I am questioning their wisdom and their judgment and their decisions, but I am not questioning their patriotism. We hear that over and over again.

Finally, we hear the drug benefit that was passed in this body denigrated again and again on the Democratic side of the aisle, the do-nothing program, the program that did not do anything for senior citizens, and the cry that has gone out to the point that I find many of my constituents believe this program is so complicated that nobody can figure it out, and nobody can get any benefit from it.

Senator HATCH and I put together a series of town meetings across our State. We gathered seniors. We said: Here is how it works. We walked them through how to get on the Internet and order drugs. Then we said: If this is too complicated for you, you are not Internet friendly. Get your grandchild to get on the Internet, and they can make it work. If you do not have a grandchild who can make it work, call 1–800–Medicare, and the person who answers the phone will get on the Internet for you and make it work.

We took seniors out of the audience, asked what drugs they are currently taking, then, on the Internet, we checked it. They came back and said: We are going to save 45 to 50 percent of our drug costs, and this was easy. This was simple.

Talk about misleading the American people. Those who stand in the Senate at a high decibel rate attacking this bill are misleading the American people. Senator HATCH and I found with our constituents this program is easy to deal with. It will save up to half of your drug costs right now, and it is the law. You do not have to wait for an election or for an eruption to have this come to pass.

I hope my friends on the other side of the aisle will not be offended when I disagree with them when they say: The President has lied. The President has misled. That is election year rhetoric that we should learn to ignore, and spend our time on the reality, which is this Congress, under this President, has, in fact, done significant things. And if we will just level with the American people as to what we have done, they will find that it is easy to navigate, and it will produce significant financial benefit.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I thank the Senator from Utah. His comments are right on. When I have an hour or two I will be happy to explain my strenuous opposition to this issue of importation of pharmaceuticals from countries that can very much harm our patients in America.

ANTI-JEWISH SENTIMENT IN EUROPE

Mr. SANTORUM. Today, as I come forward—and Senator BROWNBACK will be joining me in a few minutes—as we enter into Rosh Hashanah, the Jewish new year, a time of reflection for the Jewish people, I thought it would be appropriate to reflect upon the state of affairs with respect to Jewry around the world and the frightening rise in anti-Semitism we have seen in many parts of the world, and I argue, unfortunately, even in this country.

Senator BROWNBACK will talk about a different aspect than I, and there will be some speakers tomorrow morning during morning business who will cover various other aspects of this problem.

An area I have been particularly concerned about is the rise of anti-Semitism in Europe. As we know, the roots of anti-Semitism in various parts of Europe are very deep, and we have seen the horrific consequences of that within the last century. It is important, as a result, to keep a very close, watchful eye on any precursors to what could be another tragic, horrific situation occurring on that continent.

There is a rabbi, Chief Rabbi Jonathan Sacks, who said—and this quote, to me, is quite telling—''Let it not be said of us that we saw the tiny flame but did not put it out until it became a raging fire.'' I think that is one of our duties and responsibilities as the leader of the free world, in our diplomatic bodies around the world and through diplomatic channels country to country, to use our good offices in America to make sure we are watchful, and we do more than just watch idly, to call attention to situations which are of concern to us as freedom-loving people and as people who put first among our freedoms the freedom of conscience.

The freedom of religion is the fundamental and first of our freedoms because all freedoms flow from that. If you do not have the freedom to believe what you want to believe, then freedom of speech is a meaningless freedom, freedom of assembly is a meaningless freedom. So this is the first of the freedoms, and it is one that we believe, as Americans, very strongly.

We believe, as the President says, that liberty, that basic freedom is the right of all people given by God. Yet we see, in Europe in particular, a growing and rising tension in the world, in that continent.

I submit for the RECORD recent incidents of anti-Semitism in Europe, just in this year, the year 2004. I will go through and pick one incident from each of the countries I will talk about. Unfortunately, on this list—which is about 5 pages long—almost half of the incidents occurred in France. I have had meetings with the French Ambassador on this issue and expressed concerns about religious freedom and expressed concerns, via correspondence and meetings, about anti-Semitism. Yet this is a growing problem in this region of the world. But it is not only in France.

This first example is of a situation in France. This is a situation where we have the World War II memorial to Jewish soldiers in Lyon, where you have swastikas painted on the memorial.

You have instance after instance—and I think there are, as I said, 5½ pages of this document that I will be submitting for the RECORD—talking about anti-Semitic activity, whether it is graffiti or turning over tombstones, destroying graves, whether it is vandalism of synagogues, or whether it is assaults on Jewish children, particularly in school and coming from religious schools. We are seeing it more and more and more.

We need to understand this is not a problem that will go away if we ignore it. This is a problem which we have to speak up on and bring attention to.

In Belgium, four Jewish teenagers, all students from the same school in an Antwerp suburb, were attacked by a group of 15 men. One of the Jewish students was stabbed in the back and seriously injured. Again, an attack, in this case, by ''youth of Arab origin.''

In the Czech Republic, some 80 tombstones were overturned in a Jewish cemetery in Hranice in the east of the Czech Republic.

In Austria, a Holocaust memorial was desecrated, with the word ''lie'' spray painted over a historical plaque. This memorial near Vienna is at the site of a former concentration camp.

In Germany, in Dusseldorf, vandals sprayed swastikas and SS symbols on at least 40 gravestones at a Jewish cemetery.

In Hungary, a Jewish cemetery in northern Hungary was vandalized. More than 90 gravestones were smashed only weeks after the cemetery had been renovated by the local town council to mark the 60th anniversary of the Holocaust.

In Moldova, vandals threw Molotov cocktails at the synagogue in Tiraspol.

In Poland, in Krakow, police discovered the desecration of a 19th century synagogue. Vandals had painted swastikas on a Star of David hanging from gallows on the Tempel Synagogue.

In Romania, the wall of a Jewish cemetery in northwestern Romania was smeared with swastikas as well as anti-Semitic and fascist slogans.

In Russia, there were several instances of vandalism and an explosion in Debent that shattered several windows in a synagogue in the southern region of Dagestan.

In Ukraine, more than 50 gravestones were vandalized in a Jewish cemetery.

In Great Britain, the British rabbi—I will put up another quote from him—said, ''Jews wait anxiously for the next news of a synagogue vandalized, a cemetery desecrated, a Jewish school set on fire, Jews attacked in the streets.''

In London, only a couple months ago, there was an arson attack on a London area synagogue, destroying religious books, including some that had been smuggled out by Jewish refugees fleeing the Nazis. A burning rag was thrown into the South Tottenham United Synagogue.

In Birmingham, just last month, 60 Jewish gravestones were destroyed in a cemetery.

We can go on and on and on.

Mr. President, I ask unanimous consent the full text of this document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RECENT INCIDENTS OF ANTI-SEMITISM IN EUROPE (2004)

AUSTRIA

June 1, 2004.—Villach.—A memorial honoring Holocaust victims in southern Austria, consisting of 17 glass plates engraved with the names of 108 local Holocaust victims, was smashed. The memorial, which was created in 1999, was previously damaged by vandals in March 2003.

January 18, 2004.—Hinterbruehl—A Holocaust memorial was desecrated, with the word ''lie'' spray painted over a historical plaque. The memorial near Vienna is at the site of a former concentration camp.

BELGIUM

July 1, 2004.—Antwerp—In separate incidents, two Jewish men were attacked in the Antwerp area. A Jewish cyclist in Berchem had stones and bottles thrown at him by a group of 15 youths. He escaped injury. In the second attack, a young Jewish man was found bleeding on the street. His attacker was described as ''Eastern European origin.'' No arrests have been made.

June 24, 2004.—Antwerp—Four Jewish teenagers, all students from the same school in an Antwerp suburb, were attacked by a group of 15 men described by authorities as ''youth of Arab origin.'' One of the Jewish students, who was stabbed in the back, was seriously injured with a punctured lung. In response to the attack, ADL wrote to the Belgian Ambassador urging an investigation.

CZECH REPUBLIC

August 10, 2004.—Hranice—Some 80 tombstones were overturned at the Jewish cemetery in Hranice in the east of the Czech Republic.

FRANCE

August 26, 2004.—Paris—The director of the main public library, the Bibliotheque Publique d'Information, announced that anti-Semitic inscriptions were found stamped into a dozen books about the Dreyfus case and legal issues. The vandals stamped the edge of the books with the words ''Against the Jewish Mafia and Jewish Racism'' with the addresses of a Holocaust denial and Islamic propaganda Web sites.

August 14, 2004.—Paris—Anti-Semitic graffiti, including a sign saying ''death to Jews'' and a swastika, was found scrawled on a wall on the grounds of Notre Dame Cathedral. Police are investigating.

August 9, 2004.—Lyon—Some 60 gravestones were vandalized with swastikas in a Jewish cemetery in Lyon in southeastern France. On August 15, a 24-year-old man turned himself in to Paris police and admitted to desecrating the graves in Lyon. He did not appear to have links to far-right groups and told investigators that he was inspired by a television documentary about American racist groups. A state prosecutor said that the man was inspired by a hatred of Arabs.

July 28, 2004.—Saverne—Thirty-two tombstones were vandalized with swastikas, Stars of David and satanic ''666'' symbols in a Jewish cemetery in the Alsatian town of Saverne, north of Strasbourg. The vandalism was discovered by a family member visiting the cemetery.

June 11, 2004.—Rivesaltes—A Holocaust-era mural painted by Jewish children in a transit camp who were being held before being sent to Nazi death camps, was discovered vandalized in southwestern France. A historian visiting the site, where 4,500 Jews and Gypsies were held, found that the mural had been chiseled off the wall. According to The Independent, in 1942, a Swiss nurse at the camp asked the children to paint a Swiss landscape on the infirmary wall. The painting was discovered in 1999 and was to become the central exhibition of a Holocaust museum at the Rivesaltes transit camp. Half of the inmates of the transit camp, including 400 children, were later killed in Auschwitz. French government officials condemned the incident, and the Interior Minister promised that the mural would be restored.

June 4, 2004.—Epinay-sur-Seine—A 17-year-old Jewish student was stabbed by a man with a knife shouting ''Allahu Aqbar'' (G-d is great in Arabic). The student was leaving a Jewish school in the northern Parisian suburbs. The attacker tried to hurt two other students with a screwdriver. The student was in serious, but not critical condition. President Jacques Chirac condemned the attack and the French Interior Minister, Dominque de Villepin, visited the scene.

May 30, 2004.—Boulogne-Billancourt—A 17-year-old Jewish youth was attacked outside his home in a Paris suburb by a group of young men yelling anti-Semitic slogans. The youth is the son of a local rabbi. President Jacques Chirac condemned the attack.

May 7, 2004.—Villier-le-Bel—A small explosive device was discovered outside a synagogue north of Paris. According to media reports, the bomb was in a bag with the writing ''Boom anti-Jews'' and a swastika. On May 14, an 18-year-old man was found guilty of putting the fake bombs on the grounds of the synagogue and was sentenced to two months in prison.

May 6/7, 2004.—Verdun—A memorial to Jewish soldiers who died in the Battle of Verdun was vandalized. Nazi slogans and symbols were scrawled on the memorial. The Battle of Verdun was fought between French and German armies near the northern French city in 1916.

May 4, 2004.—Paris—In the suburb of Cretiel, a rabbi and his young son were attacked on their way home from Friday night services.

April 29/30, 2004.—Colmar—A Jewish cemetery in the Alsace region in eastern France was vandalized. At least 127 headstones were spray painted with swastikas and anti-Semitic statements. The cemetery dates back to the 18th century. The attack was condemned by numerous French officials, including President Jacques Chirac.

April 4, 2004.—Valenciennes—A synagogue in northern France was defaced with neo-Nazi slogans, including swastikas, and ''One people, one empire, one leader, 59 years, sieg heil.'' The 59 is believed to be a reference to the 59 years since the death of Nazi dictator Adolf Hitler.

March 23, 2004.—Toulon—A Jewish synagogue and community center was set on fire. According to media reports, the arsonist broke a window and threw a Molotov cocktail into the building. There was minor damage and no injuries.

January 23, 2004.—Villiers-au-Bois—Two gravestones marked with Stars of David were damaged in the World War I cemetery of Villiers-au-Bois near the English Channel coast.

January 20, 2004.—Strasbourg—A parked minibus used to transport children to a Jewish school in the eastern French city of Strasbourg was burned. Police are investigating the attack as an arson.

January 20, 2004.—Strasbourg—Police reported that a group of assailants hurled stones at the door of a Strasbourg synagogue.

January 20, 2004.—Paris—A Jewish teenager was injured in an attack by Muslim youths at an ice-skating rink. The youths shouted anti-Semitic insults at the 15-year old boy before kicking him in the head and jaw with ice skates.

GERMANY

August 15, 2004.—Berlin—A Jewish monument was smeared with a swastika. Police are investigating.

July 22, 2004.—Hagen—A fifteen-year old boy, along with two others, threatened visitors to a synagogue with a knife, and made anti-Semitic remarks. The visitors were leaving the synagogue at around 7 p.m. when they were confronted by the boys.

June 25, 2004.—Dusseldorf—Vandals sprayed swastikas and SS symbols on at least 40 gravestones at a Jewish cemerty.

HUNGARY

July 21, 2004.—Debrecen—Vandals defaced a Holocaust memorial with swastikas in the eastern Hungarian city of Debrecen. Police are investigating.

July 1, 2004.—Gyongyos—A Jewish cemetery in northern Hungary was vandalized. More than 90 gravestones were smashed just weeks after the cemetery had been renovated by the local town council to mark the 60th anniversary of the Holocaust.

MOLDOVA/TRANSDNIESTRIAN REPUBLIC

May 5, 2004.—Tiraspol—Vandals threw Molotov cocktails at the synagogue in Tiraspol.

POLAND

June 13, 2004.—Krakow—Police discovered the desecration of a 19th century synagogue. Vandals had painted swastikas and a Star of David hanging from gallows on the Tempel Synagogue.

ROMANIA

August 20, 2004.—Cluj—The wall of a Jewish cemetery in northwestern Romania was smeared with swastikas as well as anti-Semitic and fascist slogans.

RUSSIA

April 15/16, 2004.—Pyatigorsk—Fourteen tombstones were vandalized in a Jewish cemetery. The cemetery had been previously attacked in June 2003.

March 29, 2004.—St. Petersburg—The city's only kosher restaurant had its windows broken by vandals.

February 15, 2004.—St. Petersburg—Vandals desecrated about 50 graves in a Jewish cemetery, painting swastikas and anti-Semitic graffiti on headstones. Police are investigating.

January 27, 2004.—Derbent—An explosion shattered several windows in a synagogue in Derbent in the the southern region of Dagestan.

UKRAINE

May 23, 2004.—Kiev—More than 50 gravestones were vandalized in a Jewish cemetery. According to the chief rabbi of Kiev, headstones were broken and heavy old stones were thrown about. Ukrainian Interior Ministry spokesman Viktor Korchinsky denied any acts of vandalism, saying the graves were destroyed ''all by themselves, because they were too old.''

March 23/24, 2004.—Odessa—Vandals broke several windows of the Osipova Street Synagogue. No one was injured.

UNITED KINGDOM

August 21/22, 2004.—Birmingham—Sixty Jewish gravestones were destroyed in the Witton cemetery. Community officials reported that stickers with the logo of the neo-Nazi National Front were found on some of the stones.

June 18, 2004.—London—A ''suspicious fire'' damaged the synagogue and headquarters of Aish Ha Torah, a Jewish educational group, in Hendon. Two Torah scrolls were torn and desecrated in the attack and the synagogue and offices suffered serious smoke damage.

June 17, 2004.—London—An arson attack on a London area synagogue destroyed religious books, including some that had been smuggled out by Jewish refugees fleeing the Nazis. A burning rag was thrown into the south Tottenham United Synagogue.

Mr. SANTORUM. But what we see here is a very troubling trend in an area of the world which has been, unfortunately, a hotbed for this kind of behavior which has led to horrific consequences. We have an obligation, particularly in this region of the world, to point out to the governments of those countries the importance of making sure that religious liberty is respected, and religious liberty of all faiths, but in particular any kind of rise or any kind of motion toward a return to a horrific time in the world's history.

This is one of the reasons I wanted to get up and talk today. I think it is important that we bring attention to this issue, as well as the broader issue of anti-Semitism.

Later, we will hear people talk about the acceptance—it is almost incredible to believe—the acceptance of anti-Semitic behavior at our colleges and universities here in the United States of America, as well as a whole host of problems.

Mr. President, I see my time is up. I know the Senator from Kansas is here. I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank my colleague from Pennsylvania for addressing the topic of anti-Semitism and anti-Israelism expanding in the world. I have comments to add to this issue as well.

This is a disheartening development that is taking place. We are seeing it. It is being documented. I say to my colleagues, if they are interested, I have ''The Rise of Anti-Israelism & Anti-Semitism,'' by Dr. Gary Tobin, Dr. Alexander Karp, and others. It is a good 2, 2½ inches thick, documenting what is taking place in the world today. It is full of pictures and leaflets that are being distributed. Some of them are ghastly to look at. I do not want to show them on the Senate floor because they are so dark and evil and diabolical. But I think it is something for people to be able to see the documentation.

When I first heard about this developing, I said this can't really take place now. We are 60 years out from Auschwitz. That is close enough. People are still alive who experienced this. Surely this does not happen in the world today. Yet it does. We need to identify it as evil and dark and wrong and castigate it and tell people this is wrong and stand up against it. And it is, unfortunately, well documented about what is taking place.

I particularly thank my colleague Senator VOINOVICH for his tireless work in promoting the Global Anti-Semitism Review Act of 2004 and pushing to identify and get at the roots of the issue.

In his book titled ''Never Again? The Threat of the New Anti-Semitism,'' National Director of the Anti-Defamation League, Abraham Foxman, likens anti-Semitism to a disease. He says:

> Like many diseases, it spreads from person to person. It can be inherited—not genetically, of course, but through the malign impact of a bigoted adult on his or her children and grandchildren. It can lie dormant within an individual, sowing symptoms only in times of stress. And at times when a community is vulnerable, it can spread rapidly, causing an outbreak that is equivalent to an epidemic.

We cannot tolerate further spread of this epidemic. Many of us here associate anti-Semitism with the hatred of Jews that hit Europe in the 1930s and escalated to the genocidal measures of Adolph Hitler and the Nazis. However, as President Bush stated in a recent speech:

> . . . Anti-Semitism is not a problem of the past; the hatred of Jews did not die in a Berlin bunker. . . . The demonization of Israel, the most extreme anti-Zionist rhetoric can be a flimsy cover for anti-Semitism, and contribute to an atmosphere of fear in which synagogues are desecrated, people are slandered, [and] folks are threatened. . . .

This hatred of Israel and her people continues, endorsed and propagated by many states and their leaders.

In a time when we are concerned about terrorism and security, some might question the need to focus on a problem like anti-Semitism. The issues of terrorism and anti-Semitism are inseparably married, wedded by their intolerable hatred of Israel and Jews. They are joined together by their disgust for defenders of peace and democracy. The eerie and lasting relationship of state-sponsored terrorism and state-sponsored anti-Semitism is destroying hope of peace for future generations.

In the book I just referenced, the authors state:

> Terrorism has clearly been chosen and relied upon as a primary tactic by the world's most vehement anti-Israelists and anti-Semites: despotic Arab dictatorships. Syria, Iran, Saudi Arabia, and Palestine are all led by those who have chosen to use fear and terror to weaken Israeli resolve.

In the State Department's Pattern of Global Terrorism report released in 2001, it certifies that:

> Iran's involvement in terrorist-related activities remained focused on support for groups opposed to Israel and peace between Israel and its neighbors. . . . Supreme Leader Khamenei continued to refer to Israel as a 'cancerous tumor' that must be removed. . . .

The most recent report states that:

> During 2003, Iran maintained a high-profile role in encouraging anti-Israeli activity, both rhetorically and operationally. . . . Iran provided Lebanese Hizballah and Palestinian rejectionist groups—notably Hamas, the Palestine Islamic Jihad, and the Popular Front for the Liberation of Palestine-General Command—with funding, safe-haven, training, and weapons.

That is from our own State Department.

In Foxman's book, he reiterates the trend of state-sponsored terrorism taking a more religious approach:

> So today, thanks to the propaganda of a number of fundamentalist Islamic clerics, supported by Arab leaders in many countries, the Arab-Israeli conflict has been transformed from a nationalist struggle into a religious one. When Palestinian suicide bombers go out on their deadly missions, they wrap themselves not in the banner of the Palestinian Authority but in the green and white flag of Islam. When terrorists record videotapes to inspire their followers and frighten their opponents, they don't talk about demands for land or autonomy, they talk about religious martyrdom and about their wish to kill Jews.

We are living in a critical period of history. The war for civilization—and our very way of life—is being fought not only in Baghdad and Kabul, but it is being fought in Jerusalem a well, and has been for a long time. This battle pits democracy against totalitarianism. It pits freedom against subjugation. It pits a culture that values life against a culture willing to throw it away with neither remorse nor regret.

While the global war on terror is our common cause now, peace and reconciliation are our actual objectives. Through time immemorial, the people of Israel have simply sought and taught of peace; of a time when swords would be beaten into plowshares; and children would be taught of war no

more. When the lion would lay down with the lamb and there would be no more tears. Yet today we are beset with hostilities. Nations are embracing terrorism. Hatreds exist without reason.

Peace and truth go together. We must speak of peace with all who embrace peace and speak the truth about those who do not. Evil must be identified for what it is and once exposed to the sunlight of the truth, will waken, whither and fall. Terrorism and anti-Semitism are evil and must be rejected by all civilized people and every nation. Terrorism is practiced on the innocent and anti-Semitism on the vulnerable, and they are tools of dark souls. Those that employ these means must be confronted and renounced by all humanity.

Let us call on Syria and Iran, Sudan and North Korea to embrace the nobility of their heritage and renounce terrorism and anti-Semitism. Immunity from the wrath of hatred is impossible, but inoculation from the spread of this disease to future generations is both possible and necessary.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 4567, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4567) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

Pending:

Nelson (FL) Amendment No. 3607, to provide funds for the American Red Cross.

Corzine Amendment No. 3619, to appropriate an additional $100,000,000 to enhance the security of chemical plants.

Mikulski Amendment No. 3624, to increase the amount appropriated for firefighter assistance grants.

Kennedy Amendment No. 3626, to require the President to provide to Congress a copy of the Scowcroft Commission report on improving the capabilities of the United States intelligence community.

Dayton Amendment No. 3629, to ensure the continuation of benefits for certain individuals providing security services for Federal buildings.

Mr. COCHRAN. Mr. President, the Senate has made progress on this bill. We hope to continue to consider amendments during the remainder of the session today. The leader would like us to complete action on this bill tonight. I hope we can achieve that goal. If we can't, we can go into the next day and try to complete action before noon on Wednesday. But we hope we can complete action today. We urge Senators who have amendments, suggestions for changes in the bill, to come to the floor. We will consider those amendments and deal with them in an orderly way. We hope we can reject most of them. There are some we can agree to.

I see my good friend from Connecticut is on the floor and has an amendment. I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent to lay the pending amendment aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3630

Mr. DODD. Mr. President, I send an amendment on behalf of myself and Senator SPECTER to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. SPECTER, Mr. HARKIN, Mr. LEVIN, Mr. SARBANES, Mr. KENNEDY, Mr. DASCHLE, and Mr. SCHUMER, proposes an amendment numbered 3630.

Mr. DODD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the amount provided for fire department staffing assistance grants; and to provide offsets)

On page 21, between lines 20 and 21, insert the following:

FIRE DEPARTMENT STAFFING ASSISTANCE GRANTS

For necessary expenses for programs authorized by section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a), to remain available until September 30, 2006, $100,000,000: *Provided*, That not to exceed 5 percent of this amount shall be available for program administration: *Provided, further*, That the amount appropriated by title I under the heading ''OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT'' is hereby reduced by $70,000,000, the amount appropriated by title IV under the heading ''INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION MANAGEMENT AND ADMINISTRATION'' is hereby reduced by $20,000,000, and the amount appropriated by title IV under the heading ''SCIENCE AND TECHNOLOGY MANAGEMENT AND ADMINISTRATION'' is hereby reduced by $10,000,000.

Mr. DODD. Mr. President, I am offering this amendment dealing with the SAFER Act. This is the No. 1 priority of the various firefighting organizations of the United States, whether they be paid firefighters, volunteer firefighters, fire chiefs organizations, and others. On behalf of Senators SPECTER, LEVIN, HARKIN, KENNEDY, SARBANES, DASCHLE, SCHUMER, and myself, we offer this important amendment.

I want to take a few minutes, with the full recognition that my friend and colleague from Mississippi wants to move matters along. I will take as little time as I can to explain this amendment and what we are trying to do, why I think it is a worthwhile amendment, how we pay for it, and why I don't feel that the offset we are suggesting here in any way would be detrimental to the Department of Homeland Security.

Our amendment will help the 33,000 fire departments across America—paid departments, volunteer departments, and combination departments. It will help them acquire the necessary personnel they need in order to fight fires and respond to situations all across the country, particularly terrorist incidents and other large-scale emergencies that may emerge.

Just yesterday, I spent a couple of hours with the fire department of Enfield, CT. I went out on one of the calls—a traffic accident. It turned out not to be a serious emergency, but the first vehicles to actually respond to the situation were the fire departments of Enfield. That happens every single day in this country. I think one firehouse in Enfield—one of five—has some 1,200 calls they respond to each year, to give you an idea of the magnitude of emergencies these departments are called upon to respond to every day of the year, all hours of the day and night.

Mr. President, this amendment is the single most important legislative priority of the International Association of Firefighters. It is also strongly supported by the International Association of Fire Chiefs and the National Volunteer Fire Council. If our colleagues support firefighters—and I know many, if not all, do—this is an opportunity to support bipartisan legislation that will make a huge difference in the personnel area of a fire department.

In particular, this amendment provides $100 million for the SAFER Act, which stands for Staffing for Adequate Fire and Emergency Response. It was enacted last year with significant bipartisan support as part of the fiscal year 2004 Department of Defense Authorization Act. In fact, the lead sponsors at that time were Senator WARNER of Virginia, Chairman of the Senate Armed Services Committee, along with Senators SARBANES, DASCHLE, SNOWE, CLINTON, CORZINE, DURBIN, JOHNSON, KERRY, LANDRIEU, MURRAY, REED, and SCHUMER.

The House of Representatives also has championed very similar, if not exact, legislation. It has been supported by the Chairman of the House Science Committee, SHERWOOD BOEHLERT of New York; Republican Congressman CURT WELDON, a tremendous champion of firefighters for many

years; along with House minority whip STENY HOYER, and Representative BILL PASCRELL, a strong advocate of firefighters.

The $100 million our amendment provides is fully offset by reductions in management and administrative expenses in title I and title IV of the underlying bill. Even with these offsets, the accounts that will be affected will still receive an increase over last year's funding levels.

After all, this debate is fundamentally about priorities. Senator SPECTER and I strongly believe the need for additional firefighters on our Nation's streets far outweighs the need for increased resources devoted to administration and management in Washington, DC.

If I can, I will explain how this offset works because I know my good friend from Mississippi will want to address this. I know that my friend from Mississippi has a very difficult job trying to put a bill together that is balanced. I respect him immensely for having to wrestle with these important issues. Certainly, I would have supported a larger 302(b) allocation for homeland security, but that is a debate for another day.

Nevertheless, Senator SPECTER and I have chosen these offsets with a great deal of care. In no instance do they cut programs below last year's levels. They don't affect the intelligence community in any way. If anything, our offsets will respect the increases in the underlying bill but grant smaller increases. In addition, these offsets are from increases to administrative and management accounts. We believe it is more important to place new firefighters on the streets than new managers and administrators in Washington. I will mention specifically what we are doing.

The Office of the Undersecretary for Management in Title I, for example, received a significant increase in this bill over last year's level. Last year, we funded it at $130 million. This year, the Senate bill provides an increase to $245 million for the same office. That is an 88-percent increase over last year! If our amendment is adopted, the Office of the Under Secretary of Management would still receive a 35-percent increase over last year's bill.

It seems to me that if we were gutting the Office for Undersecretary for Management and making it impossible for it to operate, others could argue we don't have a good case. But in order to help put 75,000 new firefighters on the street over the next seven years, I think is a fair tradeoff.

Under title IV of the bill, the $30 million we offset only comes from management and administrative expenses. By the way, with that cut we are talking about, we still leave the level under title IV higher than what is in the House-passed bill.

We don't believe these offsets we found are in any way damaging to the underlying bill. They still allow for substantial increases in management and administrative costs, as well as leaving title IV in the same position it would be funded at in the House-passed legislation.

You don't have to take our word on the importance of the legislation and the need for increasing the number of people we have in our fire departments. The U.S. Fire Administration—not the firefighters, not the fire chiefs, but U.S. Fire Administration—and National Fire Protection Association found that fire departments throughout the Nation, rural America and urban America, lack sufficient personnel to adequately protect the public.

These concerns were echoed last year in the Council on Foreign Relations report, authored by our former colleague Warren Rudman. The report was entitled ''Emergency Responders: Drastically Underfunded, Drastically Underprepared.'' It noted that ''only 10 percent of fire departments in the United States have the personnel . . . to respond to a building collapse.'' It also found that ''two-thirds of our fire departments do not meet the consensus fire standard from minimum safe staffing levels,'' which is at least four firefighters per truck at the scene of an emergency.

If our colleagues are not concerned about these findings, they ought to be concerned about the Rudman report's conclusion. It said:

> If the Nation does not take immediate steps to better identify and address the needs of emergency first responders, the next terrorist incident could have an even more devastating impact than the September 11 attacks.

On Saturday our Nation commemorated the third anniversary of that tragic day three years ago. No American citizen will ever forget—no citizen in the world, for that matter, could ever forget—the heroism of the firefighters who were among the first on the scene that day and who charged the stairs, while everybody else was running out of these buildings.

Those 343 members of the New York Fire Department made the ultimate sacrifice that day in their efforts to save thousands of lives trapped in the World Trade Center.

After September 11, of course, we realized that firefighters face new and profound challenges. No longer do they just fight fires, promote safety, and inspect fire code violations. Firefighters still have those traditional responsibilities, but they are now called upon to do far more. They are now asked to respond to the threat of biological, chemical, and even nuclear terrorism. In other words, they are asked to confront what once seemed unthinkable on American soil. It is, therefore, not an exaggeration to say that the Nation's firefighters are now literally on the front lines of the war on terror, protecting our Nation from the very clear and present danger of future terrorist attacks.

In the past, the Congress has come to the aid of America's firefighters. We have provided substantial funds for the FIRE Act Grant Program, which I also authored with my good friend Senator DEWINE of Ohio. FIRE Act grants have enabled fire departments, large and small, paid and volunteer, to purchase the necessary equipment and train firefighters. That assistance allows them to do a better job. In Enfield, CT, yesterday, I saw exactly the kind of equipment that can be purchased with a fire grant proposal. It has made a huge difference to that one department in a relatively small community in my home State of Connecticut.

While training and equipment are extremely important, they are meaningless, obviously, without the personnel needed to take advantage of it. After all, what good is a new breathing apparatus if there is no firefighter to use it? What good is new protective clothing if there is no firefighter to wear it? What good are new firetrucks if there are no firefighters to drive them? What good are new portable radios if there are no firefighters to communicate with each other?

We cannot lose sight of the human side of this important issue. It takes significant manpower to rush into burning houses and buildings, to save the life of a child, deliver emergency medical services and respond to an incident involving a chemical or biological agent. It is, therefore, this shortfall in firefighter staffing that this bipartisan, fully offset amendment that I am offering with Senator SPECTER and others addresses.

The manpower situation was not always this dire. Yet over the past two decades the number of firefighters as a percentage of the U.S. workforce has declined considerably. I am going to put up a chart that lays out exactly what has happened. This chart will give us a clear understanding of the problems that exist.

Only 11 percent of fire departments can handle, with local personnel, a building collapse with 50 occupants or more in it. That means 89 percent of our departments cannot respond to that. Only 13 percent of fire departments can handle a hazardous material incident with chemical or biological agents and 10 injuries. Again, 87 percent cannot respond to this in an adequate way. Forty percent of fire department personnel involved in hazardous material response lack formal training in these duties, and 60 to 75 percent of fire departments do not have enough fire stations to achieve widely used response time guidelines. That gives some idea just in a brief synopsis of how serious the problems are across our country as far as the lack of personnel.

In 1983, for example, there was 1 firefighter for every 212 of our citizens. In the year 2000, there was only 1 firefighter for every 260 Americans. To put it another way, the number of firefighters has declined by almost 20 percent, nearly one-fifth, over the last two

decades. In fact, we have fewer firefighters per capita than nurses and police officers.

The amendment I am offering with our colleagues, if it is approved today, will hopefully begin to reverse this disquieting trend. In fact, the fire chief at Enfield, CT, told me that when he joined the department, there was a waiting list in order to get on the fire department. Today they are out every single day seeking to find people who will make this a career choice. In fact, they are understaffed at that particular station house.

As to our volunteer departments across the country, particularly in rural America, the days when people would be able to serve in a volunteer fire department and work in the town they lived in is diminishing. More and more people are choosing to live in rural environments and work someplace else, and they are unable to be volunteer firefighters in the home communities. Thus, the number of hired personnel becomes more important. In rural and urban America, the problem is the same.

These numbers I have just cited have recently been exacerbated by the fact that many firefighters have been called to active duty in the National Guard or Army Reserves. According to a recent survey, the smallest fire departments are disproportionately affected by the call-up of military personnel, and I note the presence of the Presiding Officer who comes from the State of Wyoming, where again a lot of small rural communities have been disproportionately affected by the call-ups and are feeling it in a very significant way. We are told that these departments are the least able to absorb the loss of trained staff and will stand to benefit from assistance made available under this amendment.

Finally, making matters worse for the fire services are the budget crises that State and local governments are enduring. This amendment is not suggesting that this ought to be a permanent program where we assume the responsibility of paying for the personnel at local fire departments across America; it is saying that the U.S. Government ought to be a better partner. Just as we have been doing with the COPS program, we can be so doing with our fire departments—not at the same level, not even close to the same level—but being a better partner to help get this on the right track again. Then hopefully, as our economy improves, our State and local governments will take over the responsibility.

Over the next 5 or 6 years, stretching this out, not trying to do it in 1 year, we can make a real difference in putting some people on the ground who can make a difference and save lives in this country.

Across our Nation today, firefighter staffing is being cut, and fire stations are being closed because of State and local budget shortfalls. These events are occurring at the same time that threats to our Nation by terrorism are placing unprecedented demands on the Nation's fire services.

I need not remind our colleagues this morning that we are currently spending billions of America's tax dollars to reconstruct Iraq. Some of those very funds are being spent to hire and train Iraqi firefighters and build fire stations in that nation. If we can find the resources to hire firefighters and renovate fire stations in Iraq, I do not think it is outrageous at all to suggest that we might find some resources to make a difference in hiring some people to protect our own communities in this great Nation of ours.

Again, I want to emphasize that our amendment is fully paid for, with reductions in management and administrative expenditures, by allowing for an increase of 35 percent in those areas, reducing the increase from 88 to 35 percent, and still by allowing under title 4 the amount for administrative and management expenditures at levels above those included in the House-passed bill.

It also has the endorsement of every major firefighter organization in this country. This is their No. 1 bill. This is their No. 1 priority. If we are going to go back home and talk about the importance of homeland security and doing a better job, standing up for these men and women who put their lives on the line every single day for our country, then it seems to me the very least we can do is see to it that they have the necessary personnel to do the job, and that is what we are asking for with this amendment.

America's firefighters are always the first ones in and the last ones out. They risk their own lives to save the lives of others. They stare danger in the face every single day because they know they have a duty to fulfill. On the third anniversary of the September 11 attacks, where 343 firefighters lost their lives doing just that, first ones in and last out, I believe there is no better way for us to commemorate September 11 and recognize the contribution of those individuals than to respond to the very organizations who represented them, who have asked us to do a bit better under this bill to see to it that our firefighters have the necessary personnel they need in order to do their job.

I thought I had already done this, but if not, I ask unanimous consent that Senator CLINTON of New York be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. At the conclusion of these remarks, I ask unanimous consent that the letter of full endorsement of the Dodd-Specter amendment by Harold Schaitberger, general president of the International Association of Fire Fighters, be printed in the RECORD. I have mentioned already where the fire chiefs are on this issue. I also ask unanimous consent that the letter from Chief Robert DiPoli, who is the president of the International Association of Fire Chiefs, of full endorsement of this legislation as well be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

This is their priority. This is their opportunity. I need not waste a lot more time talking about this. I am sure my colleagues understand its importance. I hope on one of these amendments, a bipartisan amendment, our colleagues would see fit to be supportive of this amendment.

I yield the floor.

EXHIBIT 1

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS,
Washington, DC, September 9, 2004.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: On behalf of our nation's more than 265,000 professional fire fighters, I am writing to urge your support for the Dodd-Specter amendment to the Homeland Security Appropriation (HR 4567) to provide $100 million for a fire fighter staffing initiative. The amendment is fully offset, and enjoys bipartisan support.

As you know, Congress last year enacted the SAFER Fire Fighters Act to address the critical staffing shortage in both career and volunteer fire departments nationwide. While other federal programs, such as the FIRE Act, have provided funding for fire fighter training and equipment, no federal assistance is currently being provided to ensure that fire departments have adequate personnel to take advantage of these resources.

Studies conducted by FEMA, the Council on Foreign Relations, and other organizations have consistently found that fire departments throughout the nation lack sufficient personnel to adequately protect the public. The SAFER Fire Fighters Act addresses this need by providing temporary matching funds to enable fire departments to hire additional fire fighters, and providing grants for the recruitment and retention of volunteer fire fighters.

Thank you for your consideration, and your continued support of America's fire fighters. If you have any questions about this issue, please feel free to contact Barry Kasinitz, IAFF Director of Governmental Affairs, at 202–824–1581.

Sincerely,

HAROLD A. SCHAITBERGER,
General President.

EXHIBIT 2

INTERNATIONAL ASSOCIATION OF FIRE CHIEFS,
Fairfax, VA, September 13, 2004.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: On behalf of the nation's fire chiefs, I urge you to vote for the Dodd-Specter Amendment to the homeland security appropriations bill. This amendment would fund the Staffing for Adequate Fire and Emergency Response Firefighters Act of 2004 (the ''SAFER Act'') at $100 million in Fiscal Year 2004 (FY05).

Established in 1873, the International Association of Fire Chiefs (IAFC) is a powerful network of more than 12,000 chief fire and emergency officers. Our members lead fire departments in responding to structural and wildland fires, hazardous materials incidents (including chemical, biological, radiological, and nuclear events), technical rescues (including swiftwater rescues, confined-space

rescues, and auto extrication, among others), and emergency medical situations.

The SAFER Act would go along way toward ensuring the safety of the public—and firefighters—during each of these emergency events. Large numbers of fire departments respond with an inadequate number of personnel. National Fire Protection Association (NFPA) Standard 1710 requires that, at a minimum, four members of a fire or emergency medical services company respond to an event. Often, however, more personnel are needed. In initiating a complete attack on a structural fire, for example, four firefighters are needed to meet OSHA's ''Two In/Two Out'' rule of having two firefighters inside the building and two outside, in case those inside need to be rescued. An incident commander is also required, along with a firefighter operating the water pump and one person ventilating the building.

Congress authorized the SAFER Act to grant federal funds to local communities to hire more firefighters. Grants would be awarded on the basis of need through a competitive, peer-reviewed process modeled after the highly successful Assistance to Firefighters Grant Program, which assists fire departments in funding much-needed equipment and training. The grants would be for a four-year period and must not exceed a total of $100,000 per firefighter. They require communities to match the grant (at 10, 20, 50 and 70 percent in years one through four of the grant, respectively, to phase down local government dependence on the federal government). Recipients would be required to retain new hires for at least one year following the conclusion of federal funding.

Because volunteer firefighters are such an important part of America's fire service, SAFER contains a specific provision to make sure that 10 percent of the appropriated funds are used for departments with majority volunteer or all volunteer personnel. In addition, at least 10 percent of the total appropriated funds must be used to recruit and retain volunteer firefighters.

Please vote for the Dodd-Specter Amendment to fund SAFER in FY05.

Sincerely,

Chief, ROBERT A. DIPOLI,
President.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we appreciate very much the offering of the amendment by the Senator from Connecticut. We oppose the amendment, and I have some very persuasive comments I am going to make on that subject. But before I proceed to do so, the Senator from New York has indicated an interest in offering an amendment and describing it to the Senate. I am happy to withhold my discussion of the Dodd amendment.

I ask unanimous consent, if the Senator has no objection, to set aside his amendment temporarily so the Senator from New York can offer her amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from New York.

Mrs. CLINTON. Mr. President, I appreciate very much the courtesy of my friend and colleague. I know, though, that the Senator from Connecticut is still on the floor. Perhaps he would want to hear the immediate response from the chairman of the Homeland Security Appropriations Subcommittee. So given that, if it is appropriate, I ask unanimous consent I be permitted to follow Senator COCHRAN, upon the conclusion of his response to Senator DODD.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, the bill we presented to the committee—and the committee approved it and referred it to the Senate for its consideration—has been very carefully crafted, analyzing the needs of the Department. We conducted a lot of hearings. We have been in consultation with the administration, the officials at the Department who are administering these programs, trying to make sure that, across the board, we are utilizing the funds that are available to us to get the maximum amount of benefit, in the most efficient way possible, to identify the critical and emergency needs we have, and to try to address those in a way that helps guarantee the safety and security of our homeland.

This is an important and very challenging task for the Senate. We appreciate the fact there are going to be differences of opinion and there are going to be suggestions made to increase this account or that account, reducing the funding for another, and that is what the Senator has proposed: that we add money for firefighter grants; that we take away money from other accounts in the bill, administration accounts. It is an easy vote to add money for a popular program. That is the easiest thing that we can do as a Representative or a Senator.

I am not suggesting the amendment is offered just because it calls for an easy vote, because this amendment suggests not only adding money for a popular program, but it also offsets by cutting funds for some that may not be as popular or as well known or understood as well as the firefighter program.

We all know firefighters. We know what they do. We know how heroically they performed on 9/11, and how much we depend on them every day. So we want to be sure they are well funded, that they have the training they need and the equipment they need, so we want to be generous.

That is why I point out at the outset that Senator FRIST and Senator BYRD, the former chairman of the full committee, the ranking Democrat on this subcommittee, and I joined in offering an amendment early in the consideration of this bill to increase firefighter assistance to $750 million. The bill now contains the level of funding that was included in last year's appropriations act for these purposes.

If you look at the history of funding of these programs, the firefighter assistance grants alone have received over $2.1 billion in funding since fiscal year 2002.

This does not reflect the resources that have been made available for fire departments through the basic State grant program or from State and local government support. They have, after all, the initial responsibility for these activities.

The amendment suggests offsets that we cannot afford to take. We are going to put at risk the Department of Homeland Security's initiatives in many areas if these offsets are approved in this amendment. For example, the suggestion of the Senator from Connecticut would reduce the Under Secretary for Management by $70 million, the Information Analysis and Infrastructure Protection Directorate's account by $20 million, and the Science and Technology Directorate's account by $10 million.

Buffer zone protection plans for critical infrastructure cannot be completed if the offset, cutting funds for the Infrastructure Protection Directorate, is approved. If the amendment is adopted, funding the Homeland Security Operations Center, which serves as the nerve center for sharing information across all levels of Government and the private sector, will be decimated.

In addition, the Homeland Security Information Network will not be able to provide threat information to State and local government entities as they are expected to do without the funds that are cut out of the bill by the Dodd amendment.

The management administration account, which is in the Science and Technology Directorate, provides the front line workers of the Directorate the funds for grants to university-based research facilities where many of the new technologies are being developed and designed, to more fully protect the safety and security of our homeland.

An immediate freeze is called for in all Federal hiring. The cut would decrease management administration accounts below last year's level, significantly and adversely affecting the number of employees in the Science and Technology Directorate.

The cut in funding could require a layoff of workers due to the reconfiguration and prioritization that is called for at that Directorate.

I am hopeful the Senate will carefully review the effect of this amendment, the damage that it would do to programs that are already underway that have to do with threat vulnerability programs that we cannot afford to abandon at this point. We want to work with the firefighter programs and make sure the grant programs are continued. They are generously funded in this bill, as I have pointed out, and they have been. We will continue to defend them, and we will work in conference to try to accommodate some of the concerns the Senator has mentioned in his excellent remarks.

For these and other reasons which I may state before we actually get to a vote on this amendment, I urge the Senate to vote against and reject the amendment proposed by Senator DODD.

Mr. DODD. If I may briefly respond, let me thank my colleague again. As I

said at the outset, he has a difficult job. Everyone has different ideas. I understand he has to balance all these.

If I may respectfully challenge what he said on the offsets, because this is a critical question and obviously we have to pay for these initiatives. We took money from two different titles in this bill, Title I and Title IV.

In Title I, which is where the bulk of the money would come from for the amendment, it would still leave an increase in the account of 35-percent over last year. The offset reduces it from an 88 percent increase that is in the underlying legislation.

I should mention at the outset, and I don't want to confuse our colleagues, that there are two separate proposals. One is the FIRE Act grant initiative, which the committee has been very supportive of, and I appreciate that. The bill has funding for $700 million for the FIRE Act grant program, which provides assistance for training and equipment. This amendment, however, is about personnel, which is a different issue. Our argument is that you can get a grant for new equipment, but it is meaningless if you don't have the personnel to do the job. That is why the SAFER bill is a top priority for the fire organizations.

Second, when it comes to the Title IV offsets, you still leave the administrative and management dollars at a level higher than what is in the House-passed bill.

So it is not bare-bones budgeting at all in this area. In those three categories, we are leaving more money than was in last year's budget, and at least as much as in the House-passed bill in either case.

We did it very carefully with the full knowledge that you don't want to be robbing Peter to pay Paul, as the expression goes, or cut into other critical areas. So by reducing across the board in these management areas, bringing them down to levels that still are above what they were previously, we think we have come up with a very balanced approach that deals with a very serious problem, and that is the 20-percent decline in the number of personnel that is affecting paid and volunteer departments across the country. It is a glaring problem that even the U.S. Fire Administration, aside from what firefighters and fire chiefs are saying, believes is absolutely critical.

Again, I thank my colleague from Mississippi for allowing me to bring up the amendment by having a unanimous consent to set aside pending amendments. If need be, Senator SPECTER may also want to share some comments before we finally vote on the matter. Would that be permissible?

I understand that at a later time another Senator wants to talk on this before we actually vote. Would that be permissible?

Mr. COCHRAN. Mr. President, if the Senator will yield, I think we have an opportunity for Senators to discuss these amendments out of order, if they would like. I don't think there would be any objection made to that.

Mr. DODD. I thank the Senator.

I yield the floor.

Mr. COCHRAN. Mr. President, knowing that the Senator from New York wishes to offer an amendment, I am not going to talk long. But I want to make one observation. We ought not to be getting into the business in the Senate of deciding for States and localities how they spend this grant money or how they spend the SAFER Act money. We need to have the flexibility to make those decisions with State and local governments. If we start telling a fire department they have to buy equipment with this amount of money, that they have to train people with this other amount of money, they have to equip trucks and vehicles with this amount, this amount is for that or the other, we are making a big mistake.

We are not the managers of these departments. We are not in the position to make the best decisions about how to efficiently use funds from Washington that will help our communities be safer and improve the quality of service provided by firefighters, law enforcement personnel, emergency management workers, or the rest. That is why the grant programs are broad and general. The States develop the plans for using the funds available to them from the Department of Homeland Security in many of these areas. It is the States and localities we ought to depend on to make the best decisions.

If we did what the Senator from Connecticut is suggesting we do, we would get into the business of making these departments allocate funds for one category or one specific activity or the other, and that is a big mistake. Adopting this amendment flies right in the face of the administrative policies that this Department is trying to develop and implement, and it is working to make our communities safer because we are leaving the decisions to those who are in the best position to know what is needed in their communities.

Do the firefighters need training in a certain area or another? I don't know the answer to that, if it applies to a fire department in my State. But the chief may know. He ought to know. He is in a better position to make the recommendations to the State officials as to what their needs are.

These people are applying for these funds. They are having to set out how they propose to use them. At other levels of administration, the decision is made to assign priorities and which ones have a higher priority than another.

That ought not to be made on the floor of the U.S. Senate. It is a mistake to get into the details as suggested by this amendment and take money away from activities that are ongoing, that are planned for this year, and then cut the funding for it. That is just going to make it more and more difficult to have a coherent, balanced approach to homeland security.

We hope the Senate will reject the amendment of the Senator from Connecticut.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3631

Mrs. CLINTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mrs. CLINTON] proposes an amendment numbered 3631.

Mrs. CLINTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Secretary of Homeland Security to allocate formula-based grants to State and local governments based on an assessment of threats and vulnerabilities and other factors that the Secretary considers appropriate, in accordance with the recommendation of the 9/11 Commission)

On page 19, line 21, insert '', which shall be allocated based on factors such as threat, vulnerability, population, population density, the presence of critical infrastructure, and other factors that the Secretary considers appropriate,'' after ''grants''.

Mrs. CLINTON. Mr. President, I again appreciate the courtesy of our chairman and colleague, the Senator from Mississippi. I also applaud him for taking on a heavy responsibility with respect to Homeland Security appropriations. I am going to be offering two amendments that I believe are necessary.

This first amendment is intended to do what every expert who has looked at homeland security has recommended and advised us to do.

Most recently, the 9/11 Commission reached the very same conclusion; that is, the Secretary of the Department of Homeland Security should allocate formula-based State and local homeland security grants on the basis of threats and vulnerabilities and other factors that the Secretary deems appropriate.

There are two major categories of grant money going from Washington out to the States and localities with respect to homeland security. One is called the State Homeland Security Grant Program. The other is the Law Enforcement Terrorism Prevention Grant Program.

As the Commission stated:

We understand the contention that every State and city needs to have some minimum

infrastructure for emergency response. But Federal homeland security assistance should not remain a program for general revenue sharing. It should supplement State and local resources based on the risks or vulnerability that merit additional support. Congress should not use this money as a pork barrel.

The Commission, as we know, made a number of recommendations, some of which are being considered in other bills. We will have reports from some of the committees working on intelligence reform and the like. But this is a recommendation that we can and should act on now while we are debating and considering Homeland Security funding.

Specifically, my amendment does not affect the State minimum in the bill. I would underscore that, because I know there are legitimate concerns on the part of my colleagues which I share.

I represent a very diverse State. We have a lot of rural areas. We have a lot of open space up in particularly the northern part of the State and the western part of the State. I know very well that every State has legitimate needs. My bill does not affect the State minimum. It states that the grant funds above the State minimum should be allocated based on factors such as threat, vulnerability, population, population density, the presence of critical infrastructure, and other factors that the Secretary considers appropriate.

In crafting this amendment, only the factors mentioned by the 9/11 Commission were included, no more and no less.

As my colleagues know, the 9/11 Commission recommended that an advisory committee be established to advise the Secretary on any additional factors that the Secretary of Homeland Security should consider, such as benchmarks for evaluating community homeland security needs. As the Commission stated in its report, ''the benchmarks will be imperfect and subjective, and they will continually evolve. But hard choices must be made. Those who would allocate money on a different basis should then defend their view of the national interest.

Not only did the 9/11 Commission recommend that such changes be made in how Federal homeland security funds are allocated, but so did the other commissions that we quote in the Senate all the time, commissions such as the Homeland Security Independent Task Force of the Council on Foreign Relations, chaired by former Senator Warren Rudman. In fact, every homeland security expert I have talked to has said that the way the administration has chosen to allocate funding beyond the PATRIOT Act minimum—in other words, the State minimum that everybody will get—to allocate the additional funding beyond the minimum, on a per capita basis, simply makes no sense other than—I grant this—political sense. In this area of homeland security, we must, as the 9/11 Commission urged us to do, leave our politics at the door.

This should be a debate about what is in the best interests of our entire country, every region, and particularly on the basis of those threats and vulnerabilities that place certain parts of our country at greater risk than others.

I am concerned because in the Senate report accompanying the bill that is now before the Senate, there is language that says Secretary Ridge must allocate funds beyond the all-State so-called PATRIOT minimum on a per capita basis. In other words, we are not even leaving it to chance. We are not even leaving it to the discretion of the Secretary. In the report language of this bill, we are directing, or certainly strongly urging, the Secretary to allocate that funding on a per capita basis. That is literally the antithesis of the September 11 report, the Rudman task force. It is also the antithesis of what we have heard time and time again from Secretary Ridge and even from President Bush and homeland security experts.

The Rudman task force unequivocally made clear that for the sake of homeland defense we must employ a better formula. Certainly, they reached the same conclusion as the 9/11 Commission. I am a little concerned we have report language in our Senate bill that goes so contrary to what everyone has said needs to be done.

We have talked many times about the need for a better formula, and we should continue to talk about it until we actually do something. But it is discouraging to talk and not act and, in fact, to continue to go in a different direction.

It is important when we make the decisions about this that we recognize—I am not just talking about New York or Washington, although they were specifically mentioned in the 9/11 Commission—there are other parts of our country that have critical infrastructure. For example, in southern Louisiana, we have a major port. We have offshore petroleum platforms. We have part of the Strategic Petroleum Reserve, river road crossing, facilities pumping natural gas.

Considering that complex critical infrastructure, I imagine the Secretary of Homeland Security might very well determine the State of Louisiana should get some extra threat-based funding in order to deal with what is a very real danger.

We have communities such as Lancaster County, PA. We think of that as the home of the Amish and beautiful rolling countryside, but it also has two nuclear powerplants within the borders of that county. There are only five counties in the entire country that are in that position. Again, I argue that should be taken into account.

None of this could be taken into account, however, if we follow the House bill or we follow the report language of the Senate bill and see where the Secretary is being directed to continue to distribute this money on a per capita basis.

In closing, with respect to this amendment, it is simply long past time that we conclude that we must do something on a threat basis, and in order to do that, we need to give direction to the Secretary. He and I have had many conversations about this. He has expressed to me on many occasions his desire to provide threat-based funding, but his belief is that his hands are tied, because we continue to send the message to him and to the entire country we are going to distribute this money on a per capita basis.

I ask that the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3632

Mrs. CLINTON. I send this amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON], for herself and Mr. SCHUMER, proposes an amendment numbered 3632.

Mrs. CLINTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate an additional $625,000,000 for discretionary grants for high-threat, high-density urban areas)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. (a) It is the sense of the Senate that in allocating Urban Area Security Initiative funds to high-threat, high-density urban areas, the Secretary of Homeland Security should ensure that urban areas that face the greatest threat receive Urban Area Security Initiative resources commensurate with that threat.

(b) The amount appropriated to the Office of State and Local Government Coordination and Preparedness for the fiscal year ending September 30, 2005, for discretionary grants for use in high-threat, high-density urban areas under title III of this Act is increased by $625,000,000.

Mrs. CLINTON. In addition to my first amendment, which would provide the Secretary with the discretion to distribute money above the State minimum, above the so-called PATRIOT Act minimum on the basis of threat, Senator SCHUMER and I offer this amendment to provide an additional $625 million for high-threat urban areas. This is a separate category of funding in homeland security in addition to the other two I mentioned.

In this category, we know that the Secretary does have discretion, but what we have found is that over the last several years the discretion that he has felt obligated to exercise has meant less money going to more places as opposed to concentrating money on a threat analysis so we could really take care of the needs of particular areas and then move on down to take care of the needs of others.

Last week, when Secretary Ridge spoke at the National Press Club, he said:

I would tell you that we assess the level of terrorist threat outside of Washington and New York, which will always be at the top of the list. I mean, that's just a fact of life. . . . I'm not telling you anything [new]. It's not news.

New York City, for obvious reasons—the impact on the economy and al-Qaida has always talked about the disruption or the undermining of our national economy. It's not just the iconic nature of New York City. A lot of the stock exchanges, the financial services community drives not only our national economy but the international economy.

And Washington, D.C., the nation's capital, will always be targets.

The 9/11 Commission and all the commissions before it, President Bush, and Secretary Ridge have all acknowledged the acute homeland security needs of high-threat urban areas, especially New York and Washington.

I was delighted the recent Republican convention in New York went so well. Everyone seemed to have a great time in the greatest city in the world. The amount of work, the extraordinary expense of making it run so smoothly, was defrayed to some extent by Federal assistance, but to a large measure it reflected the ongoing investment that the people of the city of New York and the State of New York made in ensuring that we are always on high alert because, in fact, in New York City we are always on high alert.

Yet despite that, last year, the Department of Homeland Security allocated only $47 million to the New York City area under the high-threat program. They admit that was insufficient. Everyone who looked at it knows it is insufficient.

Our mayor has come forth with a very scrubbed list of immediate needs that is in the area of about $600 million just for New York City. That is why I am offering this amendment along with my colleague. I recognize Secretary Ridge has the authority to allocate high-threat resources in the way he deems appropriate. But, unfortunately, there is not enough money in the pot for him to do the job he knows needs to be done. So my amendment expresses the sense of the Senate that in allocating resources under the Urban Area Security Initiative, the Secretary should allocate commensurate with the threat these areas face.

Now, $47 million, which was the allocation last year to New York City, is a lot of money. But it pales in comparison to the $200 million the New York City Police Department alone spends on counterterrorism activities and the $1 billion in New York City's specific homeland security needs.

My guess is many of our guests at the Republican Convention enjoyed the city in part because the police presence was so pervasive and the reputation of our firefighters so well deserved for courage and bravery that it was not a matter you needed to think much about. You could get out and enjoy the city and go back and forth to hotels and go out for meals and maybe even go to the theater. I was thrilled by that. I am always very happy when people come to New York City.

But the very bottom line is, we are not getting adequate funding to be as prepared as we need to be. And other high-threat areas are also in the same position. I hope we are able to recognize these two amendments are real, commonsense amendments. They are aimed at making sure the money gets where it is most needed and at increasing the money that is specifically addressing high-threat urban areas. Because, unfortunately, we are playing a little bit of a shell game here. We are cutting money for first responders, which is why I strongly support the amendment from my colleague, the Senator from Connecticut.

We are expecting those firefighters and police officers and emergency responders and emergency room doctors and nurses and others to be ready when we need them. Hopefully, we will not need them, but they better be ready if we do need them. Yet we are cutting money for first responders. The omnibus Byrd amendment that we failed to pass in the Senate last week tried to address that. It is unfortunate we are taking money away with one hand while we are giving it back with the other. But what we are giving back does not make up for either what was lost or what is needed.

I hope we can address the continuing emergency needs when it comes to our first responders. There is nothing more important—I am told this all the time—than funding specifically for interoperable communications systems. Unfortunately, there is no money in this bill to help our first responders do that. This is something we have talked about now for 3 years. Our police and firefighters could not talk to each other in New York. This is a problem that happens all over the country. Yet we do not seem to address it.

Again, the 9/11 Commission came forward with a good recommendation:

[H]igh-risk urban areas such as New York City and Washington, D.C., should establish single corps units to ensure communications connectivity between and among civilian authorities, local first responders, and the National Guard. Federal funding of such units should be given high priority by Congress.

I hope we will do that before we finish this bill. I hope we can recognize that in most parts of our country that face these risks—whether it is a tourist attraction such as Las Vegas or a large melting-pot city as Los Angeles or, of course, other cities of similar size and population density—having interoperable communications among and between first responders is essential to being able to deal with both threat and reality.

We are on the lookout for potential terrorist activities and we need to be able to hope that all of our various law enforcement and firefighting responders and others are preventers as well as responders and are well equipped to do that. We can do the right thing by increasing the amount in the high-threat urban areas. If we put in the $625 million Senator SCHUMER and I are recommending in this amendment, we would bring the total appropriated amount to $1.5 billion. This is the amount I have been arguing for and fighting for in legislation I introduced back in January of this year. It is also in line with President Bush, according to his proposed fiscal year 2005 budget. In that budget, he called for $1,446,000,000 specifically for high-threat urban areas.

So again, everybody seems to be in sync except our Congress. I do not understand that. I find it bewildering that we have the administration proposing this amount of money, we have every expert proposing this amount of money, but when it comes to action on the floor of the Senate and the House, somehow we do not do it. I hope my colleagues will support both of my amendments. I hope they will go along with the 9/11 Commission report which has won broad bipartisan support. It is, apparently, the fastest selling paperback in the country. A lot of Americans are reading it, digesting it. It is not only a debate among experts and policy wonks and security gurus.

There is now a debate that is happening out in America. And it is a life-or-death debate. It goes to the heart of whether we are serious about homeland security, whether we are going to put our dollars where our words have been, whether we are going to get the results we need so we can feel confident we have done everything we know to do.

So I ask my colleagues for support of the two amendments I have offered today and, in keeping with the recommendations of the 9/11 Commission, to do so in a broad bipartisan way that sends a signal to not only our Nation but to any who wish us ill anywhere in the world that we are vigilant, we are prepared, we are doing all we humanly know to do to prevent and deter attacks and respond effectively should one occur.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 3631

Mr. COCHRAN. Mr. President, I am sure Senators are aware that the Governmental Affairs Committee of the Senate has jurisdiction over the legislative authority, the law, creating the Department of Homeland Security. In that, legislation grant programs are described, allocation formulas are contained, that give guidance to the distribution of Federal funds to States and localities for various programs.

The Senator from New York is suggesting, by her first amendment, that the appropriations bill that is before the Senate should be amended to change the way the grants are being given to States and localities. The Senate Governmental Affairs Committee has already addressed this issue. Hearings have been held. A review and consideration of various changes in the allocation process have all been reviewed. And the committee has acted.

They have reported out of the Senate Governmental Affairs Committee S. 1245. That is a Senate bill called the Homeland Security Grant Enhancement Act. The act, as reported by the committee, will modify the formula for distributing domestic preparedness grants.

If the Senate wants to take action as suggested by the Senator from New York, it can adopt that bill or amend it as may be suggested by the Senator from New York. That is the appropriate vehicle for revising first responder grant funding, not this appropriations bill. We are bound by the law. We are funding the programs authorized by the law. We are giving funds according to the priorities of that law. Every time we have an annual appropriations bill, we cannot change the way those formulas are written. That would be bad policy, bad practice, and it should not be followed in this instance on this issue.

Every State in the Nation is entitled to a base level of Federal support for homeland security needs. A State's size or population does not necessarily reflect the level of danger to a State's population or to a city's population. Each State has the responsibility to make decisions that are designed to protect the property and the lives of its citizens, and they must allocate State resources—and local resources may be allocated as well—to train, equip, and maintain qualified first responders for those purposes.

I believe the committee has done a very good job of analyzing and recognizing the needs of our larger and most threatened cities. In the fiscal year 2003 appropriations and the wartime supplemental, $850 million was set aside for high-threat urban discretionary grants. In fiscal year 2004, in the appropriations bill, a further $725 million was set aside for these high-threat urban areas. The bill now before the Senate contains $875 million dedicated to high-threat urban discretionary grants. Taken together, this is over $2.4 billion just for the urban areas of our country. This is on top of the basic grant each State receives.

The Department of Homeland Security has developed a model using classified information to allocate resources to major urban areas based on a combination of current threat estimates, critical assets within the urban area, as well as population density. The formula uses a combination of these factors to produce proportional resource allocations. Of the high-threat urban grant funding for fiscal year 2004, over $79 million has gone to communities in New York State. Since the inception of the Urban Area Security Initiative, over $316 million has been made available to cities in New York. These funds are in addition to the dollars that were received by the State of New York through the basic State grants.

In fiscal year 2004, more than $141 million in discretionary high-threat funding has been allocated to communities in California. Since the inception of the Urban Area Security Initiative, more than $247 million has been made available to the State of California. So the needs of our urban areas and the States with high population centers are already being addressed. But so, too, are those in other States of our great Nation.

We should not come in on this bill today with this amendment and change the formula for the basic State grant program. That debate should occur when the Senate considers the Governmental Affairs Committee bill, S. 1245, which is now on the calendar of the Senate.

I urge my colleagues to oppose the first amendment of the Senator from New York.

The second amendment the Senator has offered deals with Urban Area Security Initiative funding and suggests to the Senate that the amount available in the bill should be increased. In this bill, as in last year's appropriation, we have continued to provide funds specifically for the largest metropolitan areas that face the most risk. The Urban Area Security Initiative grant fund is distributed at the discretion of the Secretary of Homeland Security. I have mentioned that. It is based on current threat information and other factors. With the resources available, the bill makes the best use of these limited resources.

Let me make that point again. These are limited resources. This committee has been allocated a certain amount of money, around $32 billion, to provide funding for this next fiscal year for activities under the jurisdiction of the Department of Homeland Security and other agencies that are funded in this bill. With those limitations, choices have to be made. It would be good to be able to increase funding for all of the programs in this bill. They are all worthwhile programs or they would not be in the bill. They are all important activities. But at some point the committee has to make a decision. It has to say: This is the amount that is allocated for this next fiscal year for this particular account or program.

This bill includes $875 million for the Urban Area Security Initiative. Since fiscal year 2003, including the amount provided here, over $2.4 billion will have been made available for the Urban Area Security Initiative. The Senator's amendment would add an additional $625 million, almost doubling the Urban Area Security Initiative, to this grant program.

Because of the reasons I have cited, at the appropriate time, I will suggest that a point of order should lie against this amendment.

Next let me read another provision of the committee report which I think will explain why it is important for us to reject this amendment:

> The Committee is concerned with the administration of the funds available to assist the communities most in danger in the United States. The continued expansion of the cities eligible for this funding has the impact of diluting the resources that have been made available, shortchanging those communities with the most serious quantifiable threat. The Committee believes the Department achieved a more optimal use of the funds in fiscal year 2003. Further, the Committee believes the Department's practice over the past two fiscal years, to allocate the full amount appropriated for the program at one time near the beginning of the year, leaves the Department with little ability to respond to new or updated intelligence or recent terrorist threats. Consequently, the Committee recommends that at least 10 percent of the funds appropriated for the program be reserved to meet any needs over the course of the fiscal year warranted by more current threat information and intelligence. Any reserve funds remaining at the beginning of the last quarter of the fiscal year shall be released to fiscal year 2005 grant recipients as determined by the Secretary.

It is my hope that the Senate will reject both of the amendments offered by the Senator from New York.

The PRESIDING OFFICER. The senior Senator from New York.

AMENDMENT NO. 3632

Mr. SCHUMER. Mr. President, I rise in support of this amendment introduced by my colleague and friend, Senator CLINTON, and me. It doesn't take money away from anybody else. It simply increases the amount of money to the high-needs areas. There are lots of ways to skin this cat. It is clear that the areas most under threat, cities such as New York City, the No. 1 target, as we know, of the terrorists, need far more help than we get. I think there has been a general outcry by the 9/11 Commission and many others that it is so unfair to give, say, the State of Wyoming more on a per-capita basis than New York City gets in terms of terror. I don't doubt the need Wyoming has for dollars. But if Wyoming has the need for dollars, certainly New York has a greater need for dollars.

What we have done with this amendment, which is one way to do it, is to simply increase the high-needs area. It does not touch the general formula but, rather, goes to high needs.

Let me share a little history about this high-needs area. As you may know, when we first were setting up this formula, I spent a lot of time negotiating with the White House as to how we would allocate money. Then the point person for the White House was the Secretary of OMB, Mitch Daniels. We came to the conclusion that obviously every State needed some money. And knowing how the House and Senate work, we weren't going to get a formula which would send money to the 5 or 10 largest cities or the 5 or 10 largest focal points. So we negotiated the formula in two parts.

The first was the general formula, and there was a specific need for every State and taking care of those States. Now, the remainder of that formula, which we are not discussing now, was supposed to be allocated by discretion by the administration. They basically punted the ball and did that on a per capita basis.

I ask unanimous consent that I be given an additional 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. I will not object. I have a unanimous consent request to make.

Mr. SCHUMER. I yield to the Senator for that purpose.

Mr. COCHRAN. Mr. President, I ask unanimous consent that at 2:20 today, the Senate proceed to a vote in relation to the Mikulski amendment No. 3624, with no amendments in order to the amendment prior to the vote; provided further that there be 2 minutes equally divided for debate prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, Senator SCHUMER has asked for 5 minutes and I have no objection to that. The other Senator from New York may wish additional time.

Mr. SCHUMER. Mr. President, I ask unanimous consent for 10 minutes.

Mr. COCHRAN. Mr. President, I have no objection.

Mr. REID. The Senator from New York wishes 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, we had the high-needs formula, which really didn't do justice to the areas that had the highest needs. We came up with this high-needs formula.

Frankly, the first year it worked quite well and quite fairly. The bottom line is that, of the high-needs allocation the first year, which I believe was $700 million, New York City, the city that has been the focus of both terrorist attacks, received $225 million. While still on a per capita basis, we were not getting what we thought was a fair share, it certainly came a lot closer.

But what has happened is two things. First, on the high-needs formula, other localities came in and asked for money. They said they are a high-needs area. The number of cities last year that were under the high-needs rubric expanded. The first year it was a handful, the next year it was 30, and last year it was 50. So now lots of localities are competing for this high-needs money. That is fine. I am not one to begrudge that. I think we are not doing enough on homeland security, and this is one place we should be spending more dollars.

We are not trying to take away money from the high-needs area. I remind my colleagues that the amendment we are offering will apply to a larger number of cities than first proposed. But the bottom line is very simple; that is, once the high-needs funding was spread among many cities, the cities of the greatest need, such as New York and Washington, did not get the dollars they needed. Over the last 3 years, the amount of money that New York City has received has shrunk and shrunk and shrunk. The bottom line is very simple: We are not getting what we need.

Let me talk about some of the needs in New York City. I live in Brooklyn, a proud Brooklynite. We have the Brooklyn Bridge, which crosses from Brooklyn to Manhattan. Every time I cross that bridge—usually by car and once in a while on a bicycle—there are two police officers at each end of the bridge. That bridge is guarded 24 hours a day, 7 days a week, as it must be. We picked up somebody in Ohio a few years ago who was intent on trying to destroy that bridge. Well, that is 20 police officers, because it is five shifts of four people. Multiply that by the number of bridges and tunnels comparable to the Brooklyn Bridge in New York and that shows you the magnitude of what we are doing.

It is the same thing with our firefighters and our emergency responders and our hospitals. All of them have had to do so much more because our city is at the epicenter more, quite frankly, than a hospital, police department, or a firefighting department in a middle-sized city in the middle of America, which doesn't have to do quite what we do. My guess is that bridges in Omaha, or Wichita, or Albuquerque are not guarded by two police officers at either end for 24 hours a day, 7 days a week; nor should they be. But they have to be in New York.

We will do everything we can to prevent another 9/11. Yet as we have gone further along, the amount of money New York City has been given has decreased. I know there are other cities that have needs. I worked hard to see that Buffalo was included in this formula, with $10 million. A few other cities in upstate New York have problems.

So there are only two ways to go about solving this problem. One is to rob Peter to pay Paul, to reallocate the funds that are there. That is not this amendment. We don't touch that. The other is to increase the high-needs funding, so the cities that are under the greatest threat and the greatest danger can at least be reimbursed in greater part. Certainly, we won't be made whole for the homeland security efforts that we must undertake.

We heard a few months ago, when we picked up the new intelligence, what the areas were they were focusing on: Washington, DC, and the New York City metropolitan area; five buildings, two in DC, two in Manhattan, and one in northern New Jersey. Again, we can bring home the need to focus that should be here. Yet we are not doing it.

Let me tell you, if you think we don't have the money, we are going to spend $416 billion on defense this year. We are only spending $33 billion on homeland security in toto. We are spending less than $2 billion on helping our first responders, on helping our localities that have worked so hard and so well to defend us from terrorism. It would seem to me that any fair allocation of dollars would be giving New York City more money, giving some of the other cities more money.

Let me go over the numbers. Last year, New York's share of high-needs areas dropped to 9 percent. We didn't receive 9 percent of the attacks. Thus far—and I hope there are no more anywhere in America—we received 100 percent of the two terrorist attacks that have occurred.

Our city, as I say, is struggling. We have needs like everybody else. We have a great police department, a great fire department, a great EMT department, and great hospitals. But they cannot do it alone. So it is my hope that our colleagues will rise to the occasion.

This money, as I say, will not just benefit New York but other cities of high needs throughout the country. Let's stop underfunding this very needed program. Let's stop saying let the other guy do it. In a time of terrorism, we need leadership. This amendment represents leadership, and I hope we can get the sufficient number of our colleagues on both sides of the aisle to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Mr. President, I rise to respond to some of the points made by the chairman of the subcommittee. I start by saying that as I understand the underlying legislation from the House, there is no language, either legislative or report, that addresses how the Secretary of the Department of Homeland Security should distribute the funding above the small State minimum.

The language that my amendment is addressing specifically appears in the report to the Senate bill. So I want everyone to understand that I agree every State should receive a minimum level of funding. I think that is not only politically necessary, it is appropriate and fair.

Based on the calculation of that funding, about 38 percent of all of the homeland security funding in the two biggest grant categories for the State homeland security grants and the terrorism prevention grants will go across the board on a per capita basis to all the States. So everybody will get a per capita basis that they can then use to meet their homeland security needs.

Now, the remaining 62 percent of the money is what my formula amendment is addressing. At the very least, the Senate should not be, in report language, recommending that the Department of Homeland Security also distribute the funding on a per capita basis. That runs absolutely counter to the recommendations of the 9/11 Commission. The 9/11 Commission said do away with small State minimums, do away with any kind of per capita funding, begin to distribute this money on the basis of risk and threat. Yet we get a committee recommendation from our Senate committee which basically recommends that the funds that are used consistent with each State's homeland security strategy are to be allocated on a per capita basis.

So it is not only that we are failing to change the formula to comply with the 9/11 Commission, we are directing the Department of Homeland Security not to comply with the 9/11 Commission.

I am not saying take the money away from all the States and direct it where it is most needed. I am not going the full place that the 9/11 Commission has set out for us. I am recognizing the political reality and the fairness of allocating money to every State. At the very least, let us not direct the Department of Homeland Security to distribute the money above the small State minimum on a per capita basis. So I hope we could remove that language, and my formula amendment would do that.

Secondly, we cannot wait for the Governmental Affairs Committee to come forward with their authorization. I stood on this floor months ago and said we needed to change the risk and threat analysis in order to distribute the money more effectively. The very effective chairwoman of that committee came down to the floor and said: We are working on a change of formula. Work with us. Let us get the authorization changed.

We have been waiting for that bill ever since. There is no authorization. The only opportunity we have to begin to try to focus our efforts on homeland security to address the kind of threats that we face is in this appropriations. In fact, the door has been opened because in this appropriations bill coming from the House, they talk about a PATRIOT Act minimum, and then the Senate committee goes one step forward and says above that minimum do not direct it any other way except per capita.

So I understand very well that everybody has to look out for his or her own State, but on this matter we have to put the money where the threat is, and the threat is in places such as New York and Washington. Every committee, every commission that has looked at this has come to the same conclusion.

So I look forward to working with the chairman to make it possible to distribute the money on a threat-based analysis as opposed to directing the Department to distribute the money above the small State minimum, 62 percent of the money, also on a per capita basis.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:44 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005—Continued

AMENDMENT NO. 3624

The PRESIDING OFFICER. There is 2 minutes evenly divided before proceeding to the vote on the amendment.

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, at the appropriate time it will be my intention to make the point of order against the amendment, in that it violates the Budget Act because it provides for the appropriation of additional funds above the allocation of the amount available to this subcommittee and there is no offset provided in the amendment. So for the information of Senators, that is the intention of the managers of the bill.

Under the previous order, as I understand it, a vote is scheduled to occur at 2:20. Is that the order?

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. I thank the Chair and yield the floor.

Ms. MIKULSKI. Mr. President, what is the pending business before the Senate? Is it my amendment increasing firefighters funds?

The PRESIDING OFFICER. Pending before the Senate is the Senator's amendment.

Ms. MIKULSKI. As I understand it, I have 1 minute and then there will be a subsequent comment by the chairman of the subcommittee; is that correct?

The PRESIDING OFFICER. That is correct. The Senator from Maryland.

Ms. MIKULSKI. My amendment which is pending adds $150 million to the Fire Grant Program, bringing it to the authorized level of $900 million. This Fire Grant Program is peer-reviewed and merit based with no pork in it. It provides grants to local fire departments. The President requested $500 million, the chairman added another $200 million, then Senator FRIST added another $50 million on Friday, but I want to bring it up to the full $900 million. Why? This Fire Grant Program is the only program that really helps our firefighters have the equipment they need to protect themselves, as well as modern equipment.

Last year, the Fire Grant Program received $2.5 billion for its requests—20,000 worthy applications. I know we can't fund it at $2.5 billion, but we can fund it at the authorized level. Therefore, I urge adoption of my amendment. Let us protect the first responders so they can protect us.

I ask unanimous consent that letters of support from the National Volunteers Fire Council and the Congressional Fire Services Institute be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL VOLUNTEER FIRE COUNCIL,
Washington, DC, September 8, 2004.

Hon. BARBARA A. MIKULSKI,
Hart Senate Office Building, Washington, DC

DEAR SENATOR MIKULSKI: The National Volunteer Fire Council (NVFC) is a non-profit membership association representing the interests of the more than 800,000 members of America's volunteer fire, EMS, and rescue services. On behalf of our membership, I am writing to lend our full support for your amendment to the FY 2005 Homeland Security Appropriations Bill to fully fund the Assistance to Firefighters Grant program at the $900 million level.

As you know, the Assistance to Firefighters Grant program provides critical funding to our nation's 1.1 million firefighters, 75% of which are volunteers. The purpose of the program is to bring every fire department up to a base-line level of readiness—and keep them there. The program has proven to be the most effective program to date in directly providing local volunteer and career fire departments not only with the tools they need to perform their day-to-day duties, but it has also enhanced their ability to respond to large disasters as well. As we move to prepare for terrorist incidents at home, we must first ensure that local fire departments have the basic tools they need to do their jobs on a daily basis.

The program benefits our entire nation by providing local fire departments with much-needed training and equipment to respond to 21 million calls annually. These calls include structural fire suppression, emergency medical response, hazardous materials incidents, technical rescues, wildland fire protection, natural disasters and events of terrorism.

Once again, we strongly support your amendment to the FY 2005 Homeland Security Appropriations Bill and we thank you for your continued leadership and support of America's fire service. If you or your staff have any questions please feel free to contact Craig Sharman, NVFC Director of Government Relations.

Sincerely,

PHILIP C. STITTLEBURG,
Chairman.

CONGRESSIONAL FIRE SERVICES INSTITUTE,
Washington, DC, September 7, 2004.

Hon. BARBARA MIKULSKI,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR MIKULSKI: On behalf of the Congressional Fire Services Institute's National Advisory Committee comprised of 42 national fire and emergency organizations, I am writing to thank you for all your efforts, past and present, to preserve the Assistance to Firefighters Grant Program (AFGP), also known as the FIRE Act. As you know, the FIRE Act has been a critical program in our efforts to prepare America's firefighters to effectively respond to all emergencies. It is for this reason that I would like to commend you on your efforts to increase the funding allocation for the AFGP in the FY05 Homeland Security Appropriations Act to $900 million, the full amount authorized by Congress.

The purpose of the FIRE Act is to bring every fire department up to a base-line level of readiness—and keep them there. Too many fire departments in this country lack

even the most basic needs, including proper turn-out gear, communication systems, training, prevention, and public education programs. These facts are contained in the Needs Assessment of the U.S. Fire Service published by the United States Fire Administration in cooperation with the National Fire Protection Association. It revealed that many departments lack the basic tools and training they need to respond to over 21 million calls, annually—from daily incidents to major disasters, both deliberate acts and natural events. The all-hazards response enhancement provided by the FIRE Act ensures the most efficient and effective use of federal funding. It not only prepares departments to respond to acts of terrorism, it enhances the department's ability to respond to all other emergencies that occur thousands of times each day across our country.

The FIRE Act addresses another important mission of every fire department, one that often does not command the attention it deserves because of budgetary constraints: prevention and education. Over 3,000 people die in fires every year and over 20,000 people suffer injuries. We can reduce these figures with additional funds targeted at prevention and education programs. This would allow firefighters to spend time in their communities teaching children and others about fire prevention or conducting inspections of both occupied and abandoned buildings.

A growing challenge facing the fire service is urban sprawl. As construction increases in wildland/urban interface, fire departments face new challenges requiring additional resources and personnel. During the Southern California fires last October, the media reported the number of homes destroyed. Largely overlooked were the number of lives saved and homes protected because of the heroic actions taken by the fire service. Yet we cannot expect the fire service assigned to these areas to meet the public's expectations to safeguard their lives and property without adequate resources.

When reviewing the totality of a fire department's responsibilities, it is important to recognize that every function serves a vital role in fulfilling a fire department's mission, protecting lives and property. By design, the FIRE Act addresses the entire spectrum of education, prevention and response.

The FIRE Act is not about supplanting local fiduciary responsibilities; it's about supplementing efforts to protect this country's people, property, and economy. And because the fire service provides protection to so much of our nation's infrastructure, the federal government does indeed have a responsibility to support the mission of our first responders.

In the three years the FIRE Act has been in existence, it has become one of the most effective programs administered by the federal government. In January of 2003, officials from the U.S. Department of Agriculture selected the Fire Grant Program for a study they were conducting as part of a management training course. Summarizing the programs, they said that the grant program has been ''highly effective in increasing the safety and effectiveness of grant recipients.'' Their study found:

97% of program participants reported positive impact on their ability to handle fire and fire-related incidents.

Of those recipients receiving firefighting equipment, 99% indicated improvements in the safety of firefighters and 98% indicated improvements in operation capacity.

90% of the participants indicated that their department operated more efficiently and safely as a result of the training provided by the grant program.

Over 88% of the participants who were able to measure change at the time the survey was distributed reported improvement in the fitness and health of their firefighters as a result of the program and 86% indicated reduced injuries.

The FIRE Act plays a critical role in addressing the needs of over 30,000 fire departments and one million fire and rescue personnel. We thank you for your commitment to our nation's firefighters and this important program.

Sincerely,

STEVE EDWARDS,
Chairman, CFSI National Advisory Committee.

Mr. DORGAN. Mr. President, I support the Mikulski amendment because I think that it includes important funding for firefighter grants. The amendment includes $200 million for firefighter grants—the authorized level—so that we can increase the resources available for our first responders.

In its current form, this amendment does not include any offsetting reductions to pay for the new investments. If this amendment is adopted today—and I hope that it will be—I intend to work with the conferees to offset these increases by reducing funds that have been earmarked for Iraqi reconstruction. I believe these expenditures should be offset with these other spending cuts.

Iraq is a nation that sits on some of the largest oil reserves in the world. My view is that Iraq should pay for its own reconstruction.

Last year, this Congress acted in an expedited way to appropriate $18.4 billion for Iraqi reconstruction. And yet, 10 months later, most of that money is still unspent. Less than $1 billion has been actually expended and only about $7 billion has been obligated.

Therefore, I support Senator MIKULSKI's amendment. But my intention is to push for the rescission of those unobligated Iraqi reconstruction funds and use them to offset these needed security investments.

Mr. COCHRAN. Mr. President, the bill provides adequate funds—generous funding—for this program.

I make a point of order under section 302(f) that the amendment exceeds the subcommittee's allocation under section 302(b) of the Budget Act.

The PRESIDING OFFICER. A point of order has been raised.

Ms. MIKULSKI. I move to waive the point of order.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kentucky (Mr. BUNNING) and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote ''no''.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 45, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—50

Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Feingold	Murkowski
Bingaman	Feinstein	Murray
Bond	Graham (FL)	Nelson (FL)
Boxer	Harkin	Nelson (NE)
Breaux	Hollings	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Collins	Kohl	Schumer
Conrad	Landrieu	Specter
Corzine	Lautenberg	Stabenow
Daschle	Leahy	Talent
Dayton	Levin	Wyden
Dodd	Lieberman	

NAYS—45

Alexander	Domenici	McCain
Allard	Ensign	McConnell
Allen	Enzi	Miller
Bennett	Fitzgerald	Nickles
Brownback	Frist	Roberts
Burns	Graham (SC)	Santorum
Chafee	Grassley	Sessions
Chambliss	Gregg	Shelby
Cochran	Hagel	Smith
Coleman	Hatch	Snowe
Cornyn	Hutchison	Stevens
Craig	Inhofe	Sununu
Crapo	Kyl	Thomas
DeWine	Lott	Voinovich
Dole	Lugar	Warner

NOT VOTING—5

Akaka	Campbell	Kerry
Bunning	Edwards	

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the point of order was sustained.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, we are at a point now where we are hopeful we can begin disposing of amendments that have previously been offered and on which debate has occurred. They have been set aside so Senators can offer amendments on other subjects. We have at this time nine amendments that are in that situation: amendments offered by Senators NELSON, CORZINE, KENNEDY, DAYTON, DODD, CLINTON, and one by CLINTON and SCHUMER.

We are hopeful we can reach some understanding about a time to begin voting on these amendments. We do know there are a couple meetings that require Senators' attendance off the floor at this time, and that might be the situation until about 3:30. But I am hopeful the leaders on the other side

can consider entering into an understanding or an agreement that we will begin voting on these amendments at 3:30. So I say that for the information of Senators.

There is a markup session going on by the Senate Appropriations Committee. That may start at 3 o'clock. That is going to require the attendance of a good number of Senators. So for the information of Senators, we are hopeful we can begin a series of votes at about 3:30, dispose of the pending amendments, and then proceed to consider other amendments that Senators may wish to offer.

Mr. NELSON of Florida. Will the Senator yield?

Mr. COCHRAN. I am happy to yield to my friend from Florida.

Mr. NELSON of Florida. Perhaps the distinguished Senator from Mississippi—by the way, the third hurricane has a track that keeps getting closer and closer to the Mississippi gulf coast. But as the distinguished Senator, the chairman of the committee, and I have been talking about the emergency supplemental appropriations for hurricane damage, I have been provided with a copy of what will be the President's request for the new supplemental.

I note that it does include a lot of the agencies of Government about which this Senator has spoken that have desperate needs as a result of two hurricanes hitting back to back in Florida. I noticed there is nothing in here for the agricultural losses, including crop losses as well as equipment losses, of which the Florida commissioner of agriculture has written to the White House, to OMB, and said those losses are $2 billion. What would the advice of the chairman of the committee to this Florida Senator be of how we want to address that, since the President is not requesting in his new supplemental any money for agricultural losses?

Mr. COCHRAN. Mr. President, I appreciate the inquiry of the Senator from Florida. It is my understanding that the Department of Agriculture has existing authority under current law to provide assistance for agricultural purposes in areas where people have suffered disasters. It provides opportunities for haying and grazing on conservation lands. There are a wide range of emergency activities that can be undertaken under existing law.

When we reach a point at which there is a determination of exact dollar amounts of damage incurred by citrus growers or others who have been hurt by the storms in Florida, that may be a possible reason for an additional supplemental to be submitted whose benefits were not described in the submission that was received today. This is considered an emergency for the Federal Emergency Management Agency and others who are on the frontline of recovery, providing shelter, providing food, emergency items to protect life, debris removal, particularly areas where the debris poses a danger to life and limb.

This is the kind of supplemental, as I understand it, the President has submitted. We hope to be able to approve that and call it up. The Appropriations Committee is meeting this afternoon. Senator STEVENS, chairman of the committee, wants to take action on it as soon as possible. The House has to act on it as well. It may very well be that we will have a vehicle on which to go to conference with the House this week.

I am hopeful we can keep the President's request clean and approve the request, get the money to the agencies that need the funds, and look to these other issues as they mature in time, in the sense that there has been time to assess the damages and we know what they are and who is entitled to the benefits and what kind of benefits there are in agriculture.

But there is no doubt in my mind there will be a need for sensitive and generous assistance for agricultural producers which do not have any other benefits. We do have crop insurance. There are other things available to farmers under current law, and they will be able to receive these and be provided with deserved and well-needed benefits.

Mr. NELSON of Florida. Mr. President, if the distinguished Senator will yield for a further question.

Mr. COCHRAN. I am happy to yield to my friend.

Mr. NELSON of Florida. Indeed, I understand what the Senator is referring to. There are section 32 discretionary funds that would be, for example, available for Florida citrus growers. But it comes nowhere close to the estimated amount of losses in these two hurricanes for the citrus crop and equipment which is going to exceed $½ billion, just in itself. That is not even to speak of all the other kinds of crops—vegetables, sod, timber, milk that was dumped as a result of the dairies, all kinds of vegetables, tropical fruit, clams, oysters, poultry. Nurseries, Florida's top cash crop, has suffered $½ billion in losses.

My question is, there is buzzing out here an amendment that is being put together by midwestern Senators, Republican and Democratic, to take care of their agricultural problems. Yet they do not address the full need of Florida which has suffered back-to-back hurricane losses that have affected its agriculture.

What would be the advice of the Senator from Mississippi to the Florida Senators, when others are coming forth, and yet Florida's agricultural needs, after two disastrous hurricanes, are not being met?

Mr. COCHRAN. Mr. President, my advice to all Senators, including my good friend from Florida, is to try to work with the Appropriations Committee leadership. Senator STEVENS is chairing a meeting marking up individual appropriations bills this afternoon. The committee will be considering the request for supplemental appropriations submitted by the President that we just talked about. At that time, when we are considering the supplemental for disaster assistance, would be the time, in my view, when we could consider other hurricane damage that the Senator is discussing now. In my mind that would be a more appropriate vehicle for the Senators who are talking about midwestern agricultural needs as well.

I hope this annual appropriations bill for the Department of Homeland Security won't get held up with a debate over disaster assistance because of drought or other problems in other parts of the country. It is hard to say yes, let's have some funds included in the bill for those purposes, and then say no to those in our part of the country where we do know the needs are real. They are just as expensive, maybe much more so in reality, than the Midwestern problems.

I am hopeful that we can protect the integrity of the appropriations process and the integrity of the Homeland Security appropriations bill. Let's move this to completion, go to conference with the House, and, in an orderly, coherent way, fund the needs of the Department of Homeland Security to protect us from terrorist threats, other natural disasters such as the ones that are being addressed by the Federal Emergency Management Agency. Then in a separate action, let's consider disaster assistance for hurricane victims and drought victims and others in agriculture who have otherwise suffered serious losses this year.

Mr. NELSON of Florida. Did this Senator misunderstand the distinguished Senator from Mississippi in that the President's request for this hurricane relief that has happened on those two hurricanes was going to be or not going to be attached as an amendment to the Department of Homeland Security appropriations bill?

Mr. COCHRAN. I don't think that is a decision that has been made.

Mr. NELSON of Florida. I see.

Mr. COCHRAN. My expectation is that the committee leadership, in consultation with the leaders of the Senate, will make that decision at a later time. Today they are trying to mark up individual appropriations bills, and in due course they will take up the supplemental as well.

Mr. NELSON of Florida. Then I would say to the distinguished Senator from Mississippi, I was given to believe that, in fact, was a decision that was made, that this hurricane relief was going to be attached to this Homeland Security bill. I got that impression from the majority leader, Senator FRIST. If that decision has not been made then, fine.

Mr. COCHRAN. It may have been made and I just haven't heard about it. The Senator from Florida may be more up to date than I am. But I knew it was an option that was being considered and being discussed. I was not aware that the decision had definitely been made to do that.

Mr. NELSON of Florida. Then this Senator certainly would not have to encourage the quickening of the interests in all of this hurricane disaster assistance relief as this Senator speaks with the Senator from Mississippi, because right now Hurricane Ivan, a category 5 hurricane, is bearing down on the Mississippi coast. It could well be that we are looking at an additional hurricane emergency disaster relief supplemental that would directly affect the State represented by the distinguished Senator who is the chairman of the committee.

Mr. COCHRAN. Mr. President, the Senator is absolutely correct. It poses a real danger, not only to the people in that area but also to property. It is clear that the disaster relief fund of the Federal Emergency Management Agency, which we replenished just a few days ago to the tune of $2 billion, could run out of money again. I know the tendencies of this Congress to be that where there are needs like that, we will act to address them. At a time when that relief fund or any other account is depleted and hurricane victims need the attention of these agencies and the benefits to which they are entitled, we will act. I believe we will act promptly and with dispatch and with generosity to the fullest extent allowed under the law.

Mr. NELSON of Florida. Mr. President, is FEMA appropriated under the Appropriations subcommittee the Senator chairs?

Mr. COCHRAN. It is one of the agencies under the Department of Homeland Security, and it is covered in this annual appropriations bill.

Mr. NELSON of Florida. Then this Senator simply makes a recommendation that we should never be in an emergency posture like we were last week, where FEMA is not carrying the adequate reserves. On Thursday, they ran out of money and were, in fact, not spending the money that was desperately needed in the previous 5 days for hurricane relief. This Senator is merely making the recommendation that, as we look to FEMA appropriations in the future, there should be a cushion of reserves in FEMA because this country can face all kinds of disasters, as we know, and this year FEMA's budget was too lean to be able to respond.

Mr. COCHRAN. The Senator makes a point we should consider. I agree with that. It is awfully difficult for us to know the future or to be able to predict it and the needs of every agency of the Government, even FEMA. But we do the best we can and we will continue to work hard. Any advice or suggestions the Senators might have for the appropriate level of funding on an annual basis would be welcome.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAPO). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORZINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3619, AS MODIFIED

Mr. CORZINE. I ask unanimous consent that I be allowed to modify amendment No. 3619 at the desk. The change is to allow for funding of the offset of the proposed amendment, regarding chemical security plants.

The PRESIDING OFFICER. Is the Senator asking that amendment be made pending at this time?

Mr. CORZINE. Yes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CORZINE. Mr. President, I send the modified amendment to the desk.

The PRESIDING OFFICER. The amendment will be so modified, and it is now pending.

The amendment (No. 3619), as modified, is as follows:

On page 19, line 17, strike ''$2,845,081,000'' and all that follows through ''grants'' on page 20, line 11, and insert the following: ''$2,915,081,000, which shall be allocated as follows:

''(1) $970,000,000 for formula-based grants and $400,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT Act (42 U.S.C. 3714): *Provided,* That the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 45 days after the grant announcement; and that the Office of State and Local Government Coordination and Preparedness shall act within 15 days after receipt of an application: *Provided further,* That each State shall obligate not less than 80 percent of the total amount of the grant to local governments within 60 days after the grant award; and

''(2) $1,270,000,000 for discretionary grants for use in high-threat, high-density urban areas, as determined by the Secretary of Homeland Security: *Provided,* That the amount under title I for the Human Resources Account of the Office of the Under Secretary for Management shall be reduced by $70,000,000: *Provided further*, That $150,000,000 shall be for port security grants; $15,000,000 shall be for trucking industry security grants; $10,000,000 shall be for intercity bus security grants; $150,000,000 shall be for rail and transit security grants; $70,000,000 shall be for enhancing the security of chemical plants''.

Mr. CORZINE. Mr. President, this amendment addresses one of the most serious security threats facing our Nation: the threat of terrorist attacks on chemical facilities. It is a subject I have worked on with a number of colleagues on both sides of the aisle over the last 3 years. It addresses an issue where there are literally thousands of chemical facilities across the country where a chemical release could expose tens of thousands of Americans to highly toxic gases.

I have tried to stress that there are 123 of these where more than a million people could be exposed. About eight of those are in New Jersey, so this is an intensely important subject matter for the community I represent. We need to change this.

While we are working today on the Department of Homeland Security appropriations, there is authorizing legislation working through the Environment and Public Works Committee that would deal with this problem. I want to be a constructive element in bringing that to a conclusion. We have a security problem now with our chemical plants. My modified amendment would provide $70 million to State and local governments in order to enhance the security of those chemical plants. Also, it includes that offset I mentioned, which is changed from the original version of the amendment.

This amendment only takes a modest first step by appropriating that money to these State and local efforts. Funds could be used, for example, to strengthen law enforcement's presence around chemical plants. When we go to Code Orange, the Department of Homeland Security requests that our local law enforcement provide additional security for these plants. It is not like they are not doing this already. That is overtime for additional individuals. Also, this money would go to train and prepare officials to respond to a terrorist attack. The release of a chemical toxic cloud is not like fighting a fire; it takes different kinds of actions. This amendment would provide some of that support. It would also provide guidance and assistance to plant managers. It would have the proper interface with State and local officials on how to respond and maybe even prevent attacks on chemical security plants.

As I said, the funds will be offset by eliminating funds for a new Department of Homeland Security performance pay system, and we will provide the resources that I think—at least looking at a tradeoff of how I see it in New Jersey, and I think it is the case across the country, since 123 plants expose more than a million people, it is a good tradeoff. It may be an important issue to get on with pay systems, but I don't understand how we trade that off versus the security of the individuals who surround the plants.

Remember, these plants were built in a different era, at a different time. They are very prominently located in densely populated areas in the country. We ought to do what we can to protect them. One of the ways is to provide these funds. That is what this amendment is about. I spoke about it at length the other day on the Senate floor. I believe very strongly that there are real reasons for us to pay attention to chemical plant security in this country. Every time the Department of Homeland Security raises the code level, they mention chemical plant security. It is in the Hart-Rudman report. It is in studies of the vulnerabilities of the critical infrastructure in this country. We ought to take special steps to make sure there is security at these plants. We would not tolerate the kind of security arrangement we have in chemical plants if

they were nuclear powerplants, and there are as many people exposed to these toxic exposures, if there were to be a terrorist attack, as there would be in many, if not most, nuclear powerplants, which are located in many different areas.

I hope my colleagues will realize this is an important consideration, a modest first step. It is paid for, and I believe we can make the American people a little bit more secure by adjusting where we are spending $70 million to provide for chemical plant security. I appreciate it, and I hope that it will be favorably considered by my colleagues.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, we are at a point now where we can announce to Senators our intention to proceed to votes on some of the amendments that are pending now. The amendment of the Senator from New Jersey, which he has modified, would be the first amendment we would consider. It would be the intention of this manager to move to table the Corzine amendment and get the yeas and nays, and then have a similar motion against the Dayton amendment No. 3629 and the Clinton/Schumer amendment No. 3632. We are advised that the Appropriations Committee is in meeting now and members may not be available until close to 4, but we could begin these votes at 3:45.

The distinguished assistant leader has assured us that is an agreement that is OK with the Democratic side of the aisle, and with that understanding, I will propound this unanimous consent request.

I ask unanimous consent that at 3:45 p.m. today, the Senate vote in relation to the following amendments in the order mentioned: Corzine No. 3619, as modified; Dayton No. 3629; Clinton No. 3632. I further ask unanimous consent that no amendments be in order to the amendments prior to those votes and that there be 2 minutes equally divided for debate prior to each of the votes, and finally that the second and third votes in the series be limited to 10 minutes each.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. I thank the distinguished leader and I thank all Senators for that agreement.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I direct a question through the Chair to the distinguished manager of the bill. On this side, we still have every intention to try to finish this bill tonight. Unless something comes up we do not know about, it is my understanding that the manager also feels the same way. So if people have amendments—for example, I talked to a couple of my Senators this afternoon and they said, well, we will do it later. Everyone should know later is here. We are now at that time. Later is right now. This would be an appropriate time for someone to come over and offer an amendment as we speak. We would set what is pending aside, lay that down. It is my understanding the manager of the bill wants to move through these pending amendments as quickly as possible. We have several amendments after we finish this block of votes that are still outstanding. That is going to get us into the evening time. So if people still have amendments they want to offer, they should get over here and do that.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator very much for his suggestions. He is absolutely right. We do intend to press on and try to complete action on this bill tonight. We would appreciate the cooperation of all Senators in that regard. We are going to try to get to the point where we can announce that we are definitely going to finish the bill tonight. That is our intention. We hope we can move forward with dispatch and determination to achieve that goal. We thank the distinguished Senator for his good assistance in that regard.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3619, AS MODIFIED

Under the previous order, there are now 2 minutes equally divided on the Corzine amendment.

Mr. JEFFORDS. Mr. President, homeland security experts refer to chemical plants as ''pre-positioned weapons of mass destruction.'' Yet more than 3 years after the September 11 attacks, the Bush administration has done almost nothing to enhance the security of the estimated 15,000 chemical facilities in the United States.

I therefore support the amendment of Senator CORZINE to provide $100 million for State and local efforts to enhance the safety of communities around chemical plants. These funds are needed to allow for expanded law enforcement presence around plants, better training and preparation for first responders and local officials, and additional guidance for plant managers.

This is just a first step, however. Communities cannot do it alone. To truly enhance security, chemical sources must implement security plans that address their unique vulnerabilities. Some facilities have already made considerable improvements, such as repositioning storage tanks away from public roads and hiring more guards. Here in Washington, DC, the Blue Plains water treatment plant went one step further by switching from chlorine to bleach, thereby reducing the inherent hazards posed by their operations. Notwithstanding these improvements, numerous media and government reports continue to document significant security gaps at many facilities.

National legislation mandating federally enforceable minimum standards is long overdue. When I was chairman of the Environment and Public Works Committee, we unanimously passed Senator CORZINE's legislation out of committee. Bowing to pressure from the petroleum and chemical industries, the Bush administration put the brakes on this legislation. Now, almost 2 years later, we are still debating the issue.

We cannot afford to ignore the risks posed by chemical plants any longer. A terrorist attack at any one of the 15,000 chemical facilities nationwide would likely cause death or injury to the people in the surrounding communities. The chemical industry's own data indicates that, in a worst case release, toxic chemicals could threaten more than 1 million people at each of 123 facilities spread across 24 States. There are also more than 700 facilities from which a chemical release could threaten more than 100,000 residential neighbors.

This issue is too important to ignore or add at the last minute to another bill without adequate time for proper consideration. I have asked my staff to continue working in a tri-partisan fashion to develop legislation that can be adopted unanimously by the Senate. If such an agreement cannot be reached quickly, however, we should move stand-alone legislation to the floor for a full debate.

In the meantime, I urge my colleagues to support the amendment of Senator CORZINE to help communities surrounding chemical plants address the added security risks that these facilities pose. We should then quickly enact comprehensive chemical security legislation to supplement these community efforts and ensure that the chemical facilities themselves do their part to ensure the safety of our home towns.

Mr. COCHRAN. Has a motion to table the Corzine amendment been made?

The PRESIDING OFFICER. It cannot be made until the time is expired.

Mr. COCHRAN. Mr. President, the committee has recommended in this bill $193,673,000 for protective action activities, for developing and implementing protective programs for the Nation's critical infrastructures, including chemical facilities, Federal, State and local, and private sector activities and programs and best practices.

Nationwide, we have seen 2,040 chemical facilities complete vulnerability

assessments as developed by Sandia National Laboratories and the Center for Chemical Process Safety. The Department of Homeland Security has made considerable progress in increasing the security of chemical facilities across the country. Site visits are conducted at chemical facilities as part of a buffer zone protection plan. These plans reduce specific vulnerabilities and build a general protection capacity of communities. As part of the protective buffer zone effort, the protective security division has developed plans to install cameras to detect and deter surveillance and other threatening activities.

The Department has provided protective measures and risk management efforts on the sites of greatest concern. We are confident these are working to improve the safety and security of chemical facilities.

We urge the Senate to support the committee and vote to approve the motion to table the Corzine amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, this amendment addresses one of the most serious security threats we have in the Nation, the threat of terrorist attack on our chemical plants. There are literally thousands—not 230 but literally thousands—of plants that are exposed to more than 10,000 folks in the country; 123 plants expose a million people or more.

My amendment provides $70 million to State and local governments, particularly to focus on this issue of security of chemical plants. It includes an offset, as I mentioned a few minutes ago.

The facts speak loudly: We need to address chemical plants. Time and time again, there are reports where people can walk on to plants without there being any kind of protection and actually following through on a lot of the security plans that were talked about before.

There is a whole further authorization bill working its way through the Environment and Public Works Committee right now, which is a very bipartisan effort to try to get at this issue, but we need to do something now.

There are, as I said, literally thousands of plants across this country. We need to provide the support to State and local officials to be able to provide the security, the overtime, needed at these plants, and particularly when we raise our code levels. The lack of security at our chemical plants has been cited as one of the greatest threats to our infrastructure. We need to provide for training. We need to provide funds for guidance and assistance to plant managers and for other steps that State and local officials can take to prevent and respond to attacks on chemical plants.

I hope my colleagues will recognize we have a problem. We ought to be doing everything we can to support and protect the American people.

Mr. COCHRAN. Mr. President, I move to table the Corzine amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kentucky (Mr. BUNNING) and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote ''yes''.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 47, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—48

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Burns	Graham (SC)	Sessions
Chafee	Grassley	Shelby
Chambliss	Gregg	Smith
Cochran	Hagel	Snowe
Coleman	Hatch	Stevens
Collins	Inhofe	Sununu
Cornyn	Kyl	Talent
Craig	Lott	Thomas
Crapo	Lugar	Voinovich
DeWine	McCain	Warner

NAYS—47

Baucus	Durbin	Lieberman
Bayh	Feingold	Lincoln
Biden	Feinstein	Mikulski
Bingaman	Graham (FL)	Murray
Boxer	Harkin	Nelson (FL)
Breaux	Hollings	Nelson (NE)
Byrd	Hutchison	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kohl	Schumer
Daschle	Landrieu	Specter
Dayton	Lautenberg	Stabenow
Dodd	Leahy	Wyden
Dorgan	Levin	

NOT VOTING—5

Akaka	Campbell	Kerry
Bunning	Edwards	

The motion was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3629

The ACTING PRESIDENT pro tempore. There are 2 minutes evenly divided on Dayton amendment No. 3629.

Mr. COCHRAN. Mr. President, the Senator from Minnesota has offered an amendment dealing with the Federal protective service. It is my intention as a manager of the bill to urge my colleagues to vote against it. First, it is the intention of the manager to move to table this amendment and ask for the yeas and nays, and I do so now.

The ACTING PRESIDENT pro tempore. There is still time remaining. The motion is not in order at this time.

The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, this amendment is necessary to protect the health care benefits of security guards who are protecting our security at Federal buildings in Minnesota and in other States.

In this instance, private contractors have low-bid these security contracts, and they unilaterally have shifted the employees' health payments to 401(k) contributions. The company thereby increases its profits by not paying taxes at the expense of their own employees, with no consultation, no negotiation, just cold-blooded profiteering. No wonder a company like this can underbid its competitors. The bids can go lower and lower every time they cut wages or benefits. That is why there should be employee protections—protections that were eliminated, unfortunately, over the objections of many of us when this Department of Homeland Security was created just 2 years ago.

This amendment simply requires that if a company takes over a contract, it must negotiate changes in health benefits with its employees. I think that is the least we can do on behalf of those who are risking their lives to protect our lives.

I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, this amendment seeks to define the responsibilities of the Federal Protective Service to negotiate employment contracts with other agencies or individuals who seek to work for the Federal Protective Service. This is actually a Department of Labor Fair Labor Standards Act issue. It is not a Homeland Security issue. It should not be offered as an amendment to this bill but, rather, the issue should be presented to the Department of Labor which is responsible for overseeing employee and employer relationships.

This amendment would have a very serious adverse effect on the Federal Protective Service's ability to carry out protective services and ensure the security of Federal buildings throughout the country. It could bring the efforts to a standstill.

I move to table the amendment and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kentucky (Mr. BUNNING), the Senator from Colorado (Mr. CAMPBELL), and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote ''yes.''

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The ACTING PRESIDENT Pro Tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 45, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—49

Alexander	Domenici	Miller
Allard	Ensign	Murkowski
Allen	Enzi	Nickles
Bennett	Fitzgerald	Roberts
Bond	Frist	Santorum
Brownback	Graham (SC)	Shelby
Burns	Grassley	Smith
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	
Dole	McConnell	

NAYS—45

Baucus	Dorgan	Levin
Bayh	Durbin	Lieberman
Biden	Feingold	Lincoln
Bingaman	Feinstein	Mikulski
Boxer	Graham (FL)	Murray
Breaux	Harkin	Nelson (FL)
Byrd	Hollings	Nelson (NE)
Cantwell	Inouye	Pryor
Carper	Jeffords	Reed
Clinton	Johnson	Reid
Conrad	Kennedy	Rockefeller
Corzine	Kohl	Sarbanes
Daschle	Landrieu	Schumer
Dayton	Lautenberg	Stabenow
Dodd	Leahy	Wyden

NOT VOTING—6

Akaka	Campbell	Kerry
Bunning	Edwards	Sessions

The motion was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3632

The ACTING PRESIDENT pro tempore. There are 2 minutes equally divided on the amendment of the Senator from New York.

Mr. COCHRAN. Mr. President, this is the amendment offered by the distinguished Senator from New York.

Mrs. CLINTON. Mr. President, are there 2 minutes available equally divided?

The ACTING PRESIDENT pro tempore. That is correct.

Mrs. CLINTON. Mr. President, I ask unanimous consent to add Senators KENNEDY and CORZINE as cosponsors of this high-threat amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, this amendment would add $625 million to the high-threat urban area category of Homeland Security funding. This would bring the amount close to what the President asked in his budget where he asked for $1.5 billion for the high-threat category.

What has been happening over the last several years is that the Department of Homeland Security has added the number of cities and localities with critical infrastructure to this category, which I support and agree with. But as a result, the amount of money is not sufficient in order to meet the needs of the number of places that the Secretary deems appropriate for high-threat urban funding. So I ask that we support this increase. It brings us close to the President's requested amount in the 2005 budget, and it enables the Secretary to provide the funding to a number of places that have high-threat needs.

Mr. DORGAN. Mr. President, I support the Clinton amendment because I think that it includes important funding for high risk areas. The amendment provides additional funds for those areas that are under the highest threat alert.

In its current form, this amendment does not include any offsetting reductions to pay for the new investments. If this amendment is adopted today—and I hope that it will be—I intend to work with the conferees to offset these increases by reducing funds that have been earmarked for Iraqi reconstruction. I believe these expenditures should be offset with these other spending cuts.

Iraq is a nation that sits on some of the largest oil reserves in the world. My view is that Iraq should pay for its own reconstruction.

Last year, this Congress acted in an expedited way to appropriate $18.4 billion Iraqi reconstruction. And yet, 10 months later, most of that money is still unspent. Less than $1 billion has been actually expended and only about $7 billion has been obligated.

Therefore, I support Senator CLINTON's amendment. But my intention is to push for the rescission of those unobligated Iraqi reconstruction funds and use them to offset these needed security investments.

Mr. COCHRAN. Mr. President, I appreciate very much the suggestion of the Senator from New York. The fact is, we have already identified an appropriate amount of funding for this area of concern in the bill. The committee has reviewed the request very carefully. Because the committee has exhausted its allocation of funds available to it under the allocation of the full committee on appropriations, we have identified what we think is an appropriate amount of funding for this area of concern and activity of the Department of Homeland Security. I make a point of order under section 302(f) of the Congressional Budget Act that the amendment provides spending in excess of the subcommittee's 302(b) allocation.

Mrs. CLINTON. Mr. President, I move to waive the applicable sections of the Congressional Budget Act and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kentucky (Mr. BUNNING) and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote ''no''.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Florida (Mr. NELSON) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 44, nays 50, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—44

Baucus	Feingold	Lieberman
Bayh	Feinstein	Lincoln
Biden	Graham (FL)	Mikulski
Bingaman	Harkin	Murray
Boxer	Hollings	Nelson (NE)
Breaux	Hutchison	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Clinton	Johnson	Rockefeller
Corzine	Kennedy	Sarbanes
Daschle	Kohl	Schumer
Dayton	Landrieu	Specter
Dodd	Lautenberg	Stabenow
Dorgan	Leahy	Wyden
Durbin	Levin	

NAYS—50

Alexander	DeWine	McConnell
Allard	Dole	Miller
Allen	Domenici	Murkowski
Bennett	Ensign	Nickles
Bond	Enzi	Roberts
Brownback	Fitzgerald	Santorum
Burns	Frist	Sessions
Carper	Graham (SC)	Shelby
Chafee	Grassley	Smith
Chambliss	Gregg	Snowe
Cochran	Hagel	Stevens
Coleman	Hatch	Sununu
Collins	Inhofe	Talent
Conrad	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	

NOT VOTING—6

Akaka	Campbell	Kerry
Bunning	Edwards	Nelson (FL)

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 44, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from Hawaii.

VOTE CORRECTION

Mr. INOUYE. Mr. President, on rollcall No. 178, I was present and voted aye. The Official record has me listed as absent. Therefore, I ask unanimous consent that the official record be corrected to accurately reflect my vote.

This will in no way change the outcome of the vote.

The ACTING PRESIDING pro tempore. Is there objection? Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

AMENDMENT NO. 3598

Mr. ENSIGN. Mr. President, I ask unanimous consent to set aside the pending amendment to call up amendment No. 3598.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. BOND, Mr. REID, Mr. KYL, Mr. CORNYN, Mrs. HUTCHISON, Mr. CORZINE, Mr. NELSON of Florida, Mr. CHAMBLISS, Mr. MILLER, Mr. GRAHAM of Florida, Mr. BURNS, Mr. ROBERTS, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. CLINTON, Mr. WARNER, Mr. DURBIN, Ms. LANDRIEU, Mr. CAMPBELL, and Mr. ALLEN, proposes an amendment numbered 3598.

Mr. ENSIGN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the amount appropriated for baggage screening activities, and for other purposes)

Beginning on page 10, line 25, strike ''$1,437,460,000'' and all that follows through ''presence'' on page 11, line 3, and insert the following: ''$1,512,460,000 shall be for baggage screening activities, of which $210,000,000 shall be available only for procurement of checked baggage explosive detection systems and $75,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $796,890,000 shall be for airport security direction and enforcement presence, of which $217,890,000 shall be available for airport information technology''.

Mr. ENSIGN. Mr. President, I thank Chairman COCHRAN and Senator BYRD and their staffs for working with me to draft the Ensign-Bond amendment, which has 20 cosponsors from both sides of the aisle.

This amendment addresses a shortfall in the Transportation Security Administration's budget for our airports' in-line baggage screening systems, or Explosive Detection Systems, for all checked baggage.

My amendment adds $75 million to the TSA's budget request of $250 million, for a total of $325 million. It is fully offset through a reduction in TSA's airport information technology and support.

TSA has asked for a $154 million increase in airport information technology, so we will still be giving them half of that increase. Still, even with this offset, this technology account is left with $218 million, and the reduction will not damage TSA's mission.

The reason I am offering this amendment is clear: One of the major threats of terrorism we face today is crowded airport lobbies. The huge explosive detection devices in the lobbies of airports makes the packed-in crowds an inviting target for terrorists. They could harm and kill more people in an airport lobby than they could on an entire airplane these days.

The amount that TSA requested in fiscal year 2005 for in-line baggage screening is not enough to fully fund the eight airports that are currently constructing their baggage systems, let alone the 21 airports that are waiting for money to become available so they can start their own.

It is estimated that $5 billion is needed to fully install the baggage screening systems. At $250 million a year, we are not going to get there any time soon. We need to live up to our obligation to our airports by clearing the backlog of airports that need to get these monster machines out of their lobbies. It is a huge unfunded mandate for airports that have to operate on tight budgets.

Our airports will be safer as a result. In fact, one of the recommendations of the 9/11 Commission is to expedite the installation of in-line baggage screening equipment. We will never get there if TSA cannot request enough funding for eight airports, let alone for all the airports in America that need these baggage screening systems.

In summary, my amendment is offset and will help 30 airports in our country speed up the installation of their in-line baggage screening systems. We have a huge vulnerability on our hands, and we need to act quickly.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

Mr. COCHRAN. Mr. President, we reviewed the amendment of the distinguished Senator from Nevada. We think it should be accepted by the Senate, so we hope it will be adopted on a voice vote.

The ACTING PRESIDENT pro tempore. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3598) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3630

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, in my conversations with the distinguished chairman of the committee, the Senator from Mississippi, it is my understanding the bipartisan amendment I offered earlier today—on behalf of myself and Senator SPECTER, along with several other colleagues, including Senators STABENOW, SNOWE, BIDEN, MIKULSKI, CORZINE, and CLINTON—to provide funds to fire departments to hire firefighters, will be accepted by the committee. That being the case, I see no reason for us to ask for a rollcall vote.

I ask unanimous consent that a letter from the National Volunteer Fire Council be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL VOLUNTEER FIRE COUNCIL,
Washington, DC, September 13, 2004.

Hon. CHRISTOPHER DODD,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DODD: The National Volunteer Fire Council (NVFC) is a non-profit membership association representing the interests of the more than 800,000 members of America's volunteer fire, EMS, and rescue services. On behalf of our membership, I am writing to lend our full support for your amendment to the FY 2005 Homeland Security Appropriations Bill to fund the SAFER program at the $100 million level.

The Staffing for Adequate Fire and Emergency Response (SAFER) Firefighters Act, which was passed as part of the FY 2004 Defense Authorization bill, would not only provide grants to local fire departments to hire additional personnel, but also includes a component to provide grants to volunteer and combination departments to implement recruitment and retention programs. In addition, the amendment includes language that ensures that firefighters hired under the SAFER Bill are guaranteed the right to continue to volunteer in other jurisdictions during their off-duty hours.

As you know, recruitment and retention is often cited as the number one challenge facing America's volunteer fire and EMS departments. The SAFER program would not only help to address staffing shortages in career departments, but would go a long way to reverse the national trend in the volunteer fire service that has resulted in a loss of nearly 15% of the volunteer ranks in the last 20 years.

Once again, we strongly support your amendment to the FY 2005 Homeland Security Appropriations Bill and we thank you for your continued leadership and support of America's fire service. If you or your staff have any questions please feel free to contact Craig Sharman, NVFC Director of Government Relations at (202) 887–5700.

Sincerely,

PHILIP C. STITTLEBURG,
Chairman.

Mr. DODD. I appreciate immensely the support of the Senator from Mississippi and others who are willing to accept the amendment. I want to commend Senator BYRD, Senator SPECTER, as well as their staffs, for the tremendous efforts they have made on behalf of the amendment. We were able to work out an offset that will not do any significant damage to the management and administrative functions of the Homeland Security Department. We still would have a 35-percent increase in title I, and roughly the status quo when it comes to title IV.

Firefighter staffing is the No. 1 issue for firefighters all across America. By agreeing to this amendment, we are fulfilling our pledge to these heroes to do everything we can to not only provide them with the materials, training, and equipment they need, but also the necessary personnel these departments

must have if they are going to complete their jobs.

Again, I thank the Senator from Mississippi and his staff for their outstanding efforts.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we thank the Senator from Connecticut for his good advice and suggestions in the handling of this bill. We recommend we proceed to a voice vote on his amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment No. 3630.

The amendment (No. 3630) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3639

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection to laying aside the pending amendment? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 3639.

Mr. BINGAMAN. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for continued support by the New Mexico National Guard for the performance of the vehicle and cargo inspection activities of the Department of Homeland Security)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. During fiscal year 2005 the Secretary of Homeland Security and the Secretary of Defense shall permit the New Mexico Army National Guard to continue performing vehicle and cargo inspection activities in support of the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement under the authority of the Secretary of Defense to support counterdrug activities of law enforcement agencies.

Mr. BINGAMAN. Mr. President, this is an amendment which simply provides that during fiscal year 2005, the Secretary of Defense shall permit the New Mexico Army National Guard personnel to continue performing vehicle and cargo inspection activities in support of Customs and Border Protection and immigration enforcement agencies along the border.

This is work our New Mexico National Guard has been doing now for some time. They do an excellent job. We have 17 full-time guardsmen who are involved with this inspection. They are well trained to accomplish this work. This is work which will be very difficult for the other Federal agencies involved to try to take over themselves. It is important that the National Guard be allowed to continue doing the work. The amendment would accomplish that. It is a very meritorious amendment, and I urge my colleagues to support it.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we understand the Senator from New Mexico, Mr. DOMENICI, is a cosponsor of the amendment. We appreciate Senator BINGAMAN's bringing this issue to the attention of the Senate. We recommend that we proceed to a voice vote on the Senator's amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment No. 3639.

The amendment (No. 3639) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3636

Mr. BAUCUS. Mr. President, I rise to speak on an issue that is vitally important. If there are any pending amendments, I ask unanimous consent that they be set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. I call up amendment No. 3636.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for himself, Mr. BURNS, Mr. CONRAD, Mr. ROBERTS, Mr. DORGAN, Mr. BROWNBACK, Mr. NELSON of Nebraska, and Mr. HAGEL, proposes an amendment numbered 3636.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide emergency disaster assistance to agricultural producers in Florida and other States due to losses from hurricanes, droughts, freezes, floods, and other natural disasters)

At the appropriate place, insert the following:

TITLE ____—EMERGENCY AGRICULTURAL DISASTER ASSISTANCE

SEC. ____01. CROP DISASTER ASSISTANCE.

(a) DEFINITIONS.—In this section:

(1) ADDITIONAL COVERAGE.—The term ''additional coverage'' has the meaning given the term in section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)).

(2) INSURABLE COMMODITY.—The term ''insurable commodity'' means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(3) NONINSURABLE COMMODITY.—The term ''noninsurable commodity'' means an eligible crop for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(b) EMERGENCY FINANCIAL ASSISTANCE.—Notwithstanding section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)), the Secretary of Agriculture (referred to in this title as the ''Secretary'') shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this section available to producers on a farm that have incurred qualifying crop or quality losses for the 2003 or 2004 crop (as elected by a producer), but not both, due to damaging weather or related condition, as determined by the Secretary.

(c) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.

(d) REDUCTION IN PAYMENTS.—The amount of assistance that a producer would otherwise receive for a qualifying crop or quality loss under this section shall be reduced by the amount of assistance that the producer receives under the crop loss assistance program announced by the Secretary on August 27, 2004.

(e) INELIGIBILITY FOR ASSISTANCE.—Except as provided in subsection (f), the producers on a farm shall not be eligible for assistance under this section with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—

(1) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the crop incurring the losses; and

(2) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for the crop incurring the losses.

(f) CONTRACT WAIVER.—The Secretary may waive subsection (e) with respect to the producers on a farm if the producers enter into a contract with the Secretary under which the producers agree—

(1) in the case of an insurable commodity, to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) providing additional coverage for the insurable commodity for each of the next 2 crops; and

(2) in the case of a noninsurable commodity, to file the required paperwork and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity for each of the next 2 crops under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(g) EFFECT OF VIOLATION.—In the event of the violation of a contract under subsection (f) by a producer, the producer shall reimburse the Secretary for the full amount of the assistance provided to the producer under this section.

SEC. ____02. LIVESTOCK ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall use such sums as are necessary of funds of the

Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2003 or 2004 losses (as elected by a producer), but not both, in a county that has received an emergency designation by the President or the Secretary after January 1, 2003, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(c) MITIGATION.—In determining the eligibility for or amount of payments for which a producer is eligible under the livestock assistance program, the Secretary shall not penalize a producer that takes actions (recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.

SEC. ___03. TREE ASSISTANCE PROGRAM.

The Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide assistance under the tree assistance program established under subtitle C of title X of the Farm Security and Rural Investment Act of 2002 to producers who suffered tree losses during the winter of 2003 through 2004.

SEC. ___04. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

SEC. ___05. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) PROCEDURE.—The promulgation of the regulations and administration of this title shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. ___06. EMERGENCY DESIGNATION.

Amounts appropriated or otherwise made available in this title are each designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1014).

Mr. BAUCUS. Mr. President, this is a bipartisan amendment. My colleague from Montanam Mr. BURNS, is a cosponsor of the amendment, along with Senators ROBERTS, BROWNBACK, HAGEL, CONRAD, DORGAN, and NELSON from Nebraska. Maybe there will be more later.

This amendment provides for emergency agricultural natural disaster assistance. Some might ask why I am offering this amendment, particularly on this bill. The answer is very simple. First of all, there is a tremendous need, a need in rural America to address drought agricultural disaster assistance. Just as there is a need in Florida because of the two hurricanes which have devastated that State, and a third potentially on its way, for agricultural disaster assistance, agricultural disasters from droughts in many parts of America are just as devastating. We don't hear about them as much because it is in the nature of a silent killer. They don't get on TV as much. It is over a period of time, for years. But the effect is just the same, if not worse, in many parts of our country.

We are in America. We are an entire country. Just above the Presiding Officer is our national motto, ''e pluribus unum.'' Clearly, this is something of which we should all be reminded. We are many States, but we are one Nation, here to help each other—one indeed.

Our amendment would fully fund the Crop Disaster Program, the Livestock Assistance Program, and the American Indian Livestock Feed Program for losses incurred in 2003 or 2004. The producer would have the option of deciding which of the 2 years he or she needs the assistance.

I might point out that in 1996, the year before the major years of drought began, Montana sold $847 billion worth of wheat. Just a couple years ago, we sold only $366 million. That is a 43-percent decline. Why? Essentially because of drought.

This devastation does not end at the front door of our rural homes. It is unrelenting and has taken an enormous economic toll on our communities as well as our farmers. It will take years to recover. Businesses are closing doors. Employees are being layed off in many parts of rural America as a consequence, and main streets are just drying up. Producers are considering selling parcels of land they own or pieces of equipment that they have in order to keep their operation going. They will do so only if they can keep the farm or the ranch that their family has been working on for, in many cases, generations, and scraping that money together has never been more difficult as most of the potential buyers are similarly in financial straits.

So we are drying up in many parts of the country. It is all patchwork. It is not uniform. There are certain parts of the drought that even in certain parts of my State of Montana, you can tell from this map which indicates it is very dry. Some parts are more drought stricken than others. This bill is tailored to give help to those producers who are experiencing drought, who have a disaster, very little of their crop is left, and they would be compensated for only a portion of the loss. We have to act now.

Some will say: Put this off to another bill. This is the Homeland Security bill. This is not an agricultural disaster assistance bill.

That is a technical argument. The unanimous consent request states, and I will point it out to my colleagues, that first-degree amendments to this bill are in order related to the text of homeland security and natural disasters. This is a natural disaster amendment.

This bill clearly contemplates amendments that address assistance to parts of the country that are experiencing natural disasters. You might hear, gee whiz, after all, we should wait until an agriculture bill comes up. We cannot do that. We know there are 3 weeks left before we are scheduled to adjourn. There is no time to wait. We know the big disaster bill comes up for Florida, and we know the pressure here for that to be a clean bill—don't add anything to it because it so accurately portrays the devastation in Florida, and there is going to be a rush to adjourn and they don't want any amendments, and that will happen.

We are going to hear the argument to put it off until the supplemental or another bill. Well, you have to strike while the iron is hot here. You need to take advantage of your opportunities. This is needed now, not weeks from now. It is needed right now. Frankly, a bird in the hand is worth two in the bush. If we don't act now, we jeopardize assistance that farmers deserve, as well as the folks in Florida.

I point out that we see hurricanes and tornadoes and ice storms and floods in the news; newspapers and television cover that. Those folks deserve help and we will give them help before we adjourn.

We must also remember that an agricultural disaster such as drought is more of a silent killer; it is not as visible on TV screens, but the effect is just as bad, if not worse.

You are going to hear, why doesn't the farm bill take care of all this? We know it is important to remind ourselves that disaster assistance is completely separate from funding in the farm bill. It is a totally different animal, a different phenomenon.

The argument is also made that farmers and ranchers should be satisfied with the funding they will receive in the farm bill. The truth is, only 18 percent of the total funding in the farm bill goes directly to producers. The rest goes to food stamps, nutrition programs, et cetera. The farm bill is never intended to cover losses from natural disasters; it is economic losses, not natural disasters, as this amendment so provides.

In the same way we use emergency funds to rebuild communities hurt by tornadoes and hurricanes, we should rebuild communities hurt by drought. We should not treat natural disasters differently and just pay attention to the ones that make the evening news. A disaster is a disaster. There is no reason a double standard should apply. We must not and cannot continue to ignore the impact of drought, the effect it has on our agricultural producers,

and our rural communities. It is every bit as deserving of assistance.

I repeat that it is just as important as small business owners in Florida or anybody else. Florida needs assistance and we will give them that. Those folks are hurting. But I might also say that parts of rural America need assistance and we should give them assistance because they are hurting just as much in some cases, if not worse.

I will end there, just by saying this is bipartisan. We have just as many Republican cosponsors as Democratic cosponsors. It is not a political issue. This is meant to help people who really need help.

With that, I yield the floor and urge my colleagues to take a good long hard look at this and not be—I am trying to use another word—deceived by arguments that say this is just a Homeland Security bill. That is a technicality. The unanimous consent provides for natural disaster amendments to this bill. Second, there is no time to wait. That is why we are here. That is why we are elected, to do what is right.

Somebody, who was wise, said to me: When you are going to do something, do it now, don't wait. Second, do it right the first time. Don't do it wrong the first time.

I think if we are going to do it, we should do it now, do it right the first time; and the right way is a basic, simple amendment. We are not trying to take advantage of somebody or pad anybody's pockets. It is to help people who need help.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I rise in strong support of the amendment of the Senators from Montana, Kansas, and others States that have been affected by natural disasters. We have enormous sympathy for the State of Florida and the extraordinary disasters they have faced, and we are ready to help them, as we have been helped in the past.

My State has once again been hit by the most remarkable set of disasters I have seen yet—and I have seen a lot—from the worst floods in the 1990s—we had the 500-year flood of the Red River. People may recall the images of that extraordinary flooding. In the 1980s, we had the worst drought since the 1930s.

This year, our State has been hit by a combination of flooding and drought that is truly stunning. It is almost hard to express what I have seen as I have crisscrossed North Dakota this summer.

These headlines on the chart sum up a little of what people in North Dakota have been reading all year: ''Water Everywhere, While Deadline Looms to Get Crops in the Ground.'' What that is talking about is that, in our State this year, nearly 2 million acres were prevented from even being planted because of extraordinary flooding. This is a continuation of the flooding in the Devil's Lake Basin that we have seen over the past 6 or 7 years. This lake is now bigger than the District of Columbia; it is several times the size of the District of Columbia. The lake has risen 25 feet in the last 7 years.

Throughout this entire basin, which is the size of the State of Massachusetts, the land is increasingly under water. There is a joke in North Dakota that Lake Agassiz may be reforming. Lake Agassiz, my colleagues will remember, was a giant lake, a glacial lake that covered much of the State of North Dakota in earlier ages.

Something truly phenomenal is happening in my State. Some have suggested that global climate change is affecting the severity of the weather. I don't know, but something dramatic is happening. We have towns that have experienced 18 inches of rain in 1 day, and these are places that only get 20 inches of rain in a year. It is Biblical and it is unlike anything we have ever seen.

In the midst of all of this, we had a killer frost in August. Whoever heard of a frost in August? In fact, we had several frosts in August. And while that is happening in the northern tier of the State, in the southwestern part of the State is the meanest, toughest drought I have seen in my lifetime. I just toured the southwestern part of our State. In county after county, I was in pastures that are like moonscapes because nothing is growing.

This is a headline from one of the newspapers back home: ''Drought Cancels Annual Crop Show.'' They cannot have a crop show because there are no crops to show. That is how devastating the drought has been in the southwestern part of the State. At the same time, the great irony is, just a hundred miles north, it is so wet they cannot get the crops off. I had one farmer—Mr. BAUCUS—say to me: The incredible thing here, Senator, is when you look from the road, it looks like there is 90 bushels of barley there, but you cannot get in to harvest it because it is so wet that your equipment bogs down. Now, here we are in the second week of September and there are very few days left that will be warm enough to mature the crop. The result is going to be losses that will mount geometrically.

This says, ''Losses Total $530 million.'' This is our State university that has done a calculation of the extraordinary losses. Already, there have been Presidential disaster declarations.

I make these points because while we have enormous sympathy for Florida and are prepared to assist them and to vote for natural disaster assistance to them, they are not the only ones being affected by natural disasters. I wish it were not so. I wish nobody was being faced with natural disasters, but that is the circumstance we face.

On this most recent tour, this is a wheat field that we were looking at. This is a wheat field in September. It is not up much past a person's socks. There is nothing here. It was a total loss. These people are going to lose their entire investment.

Here is a cornfield. We say knee high by the Fourth of July. You can see this corn is not knee high by the first week in September. In fact, most of these corn plants have no ears on them. About one in four has any ears, and the ears they have are like those little miniature ears that one gets in a salad when going to a restaurant. It is unlike anything I have ever seen.

This is a cornfield that is totally stunted. This is one of my assistants who is holding up this corn plant showing there are no ears on it. It is a total loss. As the farmer who was with me said: Senator, that is garbage. That whole field is just garbage.

Yet here is another part of North Dakota—I do not know if people can see this clearly through the television lens, but this is mile after mile of northern North Dakota—water, water everywhere. Everywhere one looks there is water. That is the circumstance we face in North Dakota.

In the middle of all of this, here is a map that shows the damage. There are 1.7 million acres that were prevented from even being planted all across northern North Dakota. All the green area is places where acreage was prevented from being planted. Just to put 1.7 million acres in perspective, how much is that? That is 25 percent more than the whole State of Delaware. That is the acreage they could not even plant. Those who were lucky enough to plant could not harvest. They could not harvest because it is so wet the machines are bogged down. That is what we are facing in North Dakota. It is not just drought and it is not just flooding.

On top of that, killer frost. Here is the indication of where they had killer frost. My colleagues can see in the blue those are areas that had killing frost this year. On August 20, 2004, there were freezing temperatures. The areas in the lightest blue experienced temperatures from 28.5 degrees to 32.2. In the next shade of blue, 32.2 to 35.9. In all of these areas, enormous damage was done to the crops.

One does not have to take my word for it. We brought back pictures showing what has happened. This picture is from Cass County, ND, an ear of corn unaffected. This picture was taken on August 24. That is a healthy ear of corn. Look at the Foster County picture taken the day before, August 23. This is frost-damaged corn.

My colleagues can see what a totally different picture it is, the difference between corn that is healthy and unaffected and that which has been damaged by frost.

The losses in my State are now enormous and growing geometrically. Our State university just did this assessment: Prevented planting losses as I described, 1.7 million acres, a loss of over $206 million; crop production losses, $264 million; crop quality losses,

another $58 million. Total losses in my State so far, $530 million.

Now, some say that is what crop insurance is for. Let me explain. Crop insurance will only cover 40 percent of the loss, not even 40 percent of the loss, because of the way crop insurance works. That is with the vast majority of my farmers buying crop insurance. Some will say, gee, more farmers should have bought crop insurance. In my State more than 90 percent of the farmers do buy crop insurance.

The way crop insurance works, it in no way makes one whole. It just offsets the losses, and when the losses are this massive and this significant, crop insurance only covers less than 40 percent. This shows net direct crop losses of almost $330 million.

The economists at our State university then did an analysis of what the indirect losses would be to the State. Households will lose $511 million. Retail sales will be reduced by $245 million, and put in the direct crop losses, that is an economic loss to North Dakota's economy of over $1 billion, and $1 billion to my little State is a huge amount of money. I know in Washington $1 billion may not seem all that significant. It may not be all that significant in California or New York, but in North Dakota $1 billion is real money. It means real hardship to real people, people who deserve assistance just as much as the people in Florida who have been devastated by hurricane after hurricane.

Our people have not been hit by a hurricane. They have been hit by flooding, frost, and drought. What a perverse collection of natural disasters to visit any State in any year.

The final point I wish to make to my colleagues who may be concerned that we are busting the budget is this is what has happened to the pattern of farm payments under the new farm bill. The national press has missed this story completely, I might say, but the fact is, farm program payments have come down dramatically under the new farm bill.

This is where they were under the old farm bill, $32.3 billion in the year 2000; 2001 it came down to $22.1 billion; 2002, $15.7 billion. Then we had a tick up in 2003 to $17 billion, and in 2004 they are anticipating the spending will be $11.5 billion. That is $20 billion less than 2000. The national press has not reported this at all.

The fact is, the new farm bill is costing a lot less than what we were spending under the old farm bill, much less. This year, it is $20 billion less than the cost was going to be in 2000.

My colleagues know I have been voting against waivers of the Budget Act for amendment after amendment, and I have told my colleagues there is only one exception for me and that is natural disaster, whether it is Florida, Georgia, North Carolina, South Carolina, North Dakota, Minnesota, Montana.

The hard reality is, natural disasters are unpredictable. Nobody can know who is next. Nobody can know who is going to face a flood or a drought or a hurricane. That is why we have always treated them as emergencies, with emergency funding. That is my intention this year as well.

I believe we have natural disasters. Nobody could have predicted Hurricane Charley or Hurricane Frances or Hurricane Ivan. And nobody could have predicted these terrible droughts.

Senator NELSON from Nebraska said we ought to be naming droughts because then it would get more attention. It kind of personalizes things. People could understand when we are getting hit with a natural disaster, because it has a name. We don't name droughts. Maybe we should. We certainly name a hurricane and that helps us personalize it and remember it. Droughts and floods don't have names, but I will tell you what, they affect real people who have names.

I have gone all across my State in dozens of farm meetings, all across the northern tier of North Dakota with this devastating flooding, and all across the southwestern part of my State with this disastrous drought. These are real people, real families, who are being devastated and, through no fault of their own, they are on the brink of being pushed off the farm. They have been devastated every bit as much as the people in Florida. All of them deserve our assistance and our support. I hope very much our colleagues will support this amendment.

I yield the floor.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3641

Mrs. BOXER. Mr. President, I ask the pending amendment be set aside and that we take up amendment No. 3641, which has been cleared on both sides.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Mr. CARPER, proposes an amendment numbered 3641.

On page 20, line 14, strike ''rail'' and insert ''inter-city passenger rail transportation (as defined in section 24102(5) of title 49, United States Code), freight rail,''.

Mrs. BOXER. Mr. President, this is a very simple amendment. I give tremendous thanks to Senator TOM CARPER of Delaware who has worked so hard on this amendment, and Senator BIDEN for his strong support. They have been a real leadership team, in terms of real security for Amtrak. I am pleased we were able to work together.

I also thank Senator COCHRAN enormously, because he has been so helpful to us, and of course Senator BYRD. Basically, last March we received what should have been a wake-up call when terrorists blew up a commuter train in Madrid, Spain, killing nearly 200 people and injuring 1,400. I don't think there is any American who will not remember our shock and sadness at what occurred.

Obviously, we have to address the vulnerabilities of America's rail systems. We must act now. I am so pleased that the bill before us includes more than $207 million for rail and transit security. This amendment that Senator CARPER has done so much work on and which I have worked with him on will make it clear that all rail operators will be eligible for this vital funding. This will allow the Secretary of Homeland Security to use full discretion to allocate funds to those operators with the greatest need regardless of whether they are local transit agencies, Amtrak, or freight railroad. This minor change will go a long way toward helping, and clearly many of us believe we need to do more.

I proudly sit on the Commerce Committee. That committee has now twice voted out rail security bills that are very strong. But adding more dollars to rail security would enable us to do more checking on what may be lying on the railroad tracks and set up a system so we can be sure that baggage on trains does not contain bombs. We have K–9 teams.

There are many things we want to do. It is a great frustration for me that even though Senator MCCAIN and Senator HOLLINGS and the whole committee in a bipartisan way passed railroad security not once but twice, that bill sits at the desk, as does the port security bill that we voted out, as does the nuclear plant security bill the Environment Committee voted out, and the chemical plant security bill. It is frustrating. But tonight, at least we have a chance to do a little bit more for rail security. I am very grateful for that. I know this amendment has been cleared on both sides.

I see Senator CARPER coming to the Senate floor, so I will yield the floor. But once more, I give him my tremendous thanks for his very hard work. It is wonderful to see that we can accomplish something when we reach across the aisle. We have taken a big step. Of course, we want to take even bigger steps to make sure our rail passengers are safe.

I will yield the floor at this time. I would like to know, because I would like to leave the floor at this time, if it is OK to ask for this amendment to be adopted in a unanimous consent fashion at the conclusion of Senators who wish to speak.

Mr. COCHRAN. Mr. President, if the Senator will yield, I am happy to express my support for the adoption of this amendment on a voice vote at the conclusion of the remarks of Senators

from Delaware and California or any other Senators who would like to speak.

Mrs. BOXER. All right. At the end of Senator CARPER's remarks, if no other Senator seeks recognition, then he can make that request. Would that be appropriate at that time?

Mr. COCHRAN. Mr. President, that would be my suggestion. If the Senator will yield, we will adopt the amendment on a voice vote at the conclusion of the remarks of Senators who are interested.

Mrs. BOXER. My thanks to everyone involved.

I yield the floor.

Mr. CARPER. Mr. President, before Senator BOXER leaves the Senate floor, I want to thank her for her tenacity and leadership on this issue. I think we have come to a conclusion.

I see my senior Senator, Senator BIDEN, has joined us as well. This is an issue he has worked on longer than I have been in the Senate. I want to say to my friend, job well done.

I say to Senator COCHRAN and his staff on the Senate floor, and Senator BYRD as well, thank you very much for working with us in writing a very good compromise. A number of us have expressed concern upon learning that as money was added to this bill for transit security, there was an inability—in fact, no ability—for us to access these dollars to enhance security for inner-city passenger rail, on rails principally Amtrak, and to enhance the safety and security of freight railroad operations.

As it turns out, the Northeast corridor, which runs from Washington, DC, up to Boston, MA, is owned by Amtrak. Not only do Amtrak trains ply these corridors from here to Baltimore to Wilmington to Philadelphia and New York, on to Boston, but you can stop in Providence, the State of the Presiding Officer. Also, a lot of freight rail use these tracks. The tracks themselves, the overhead wires, the tunnels through which these trains go, the bridges over which they cross are owned and operated by Amtrak. The commuter trains that use the tracks from here to New York City and on up to Boston in many cases are owned and operated by Amtrak. For us to have passed legislation here today which attempts to promote rail security at least by giving money through State and local governments to transit operations without allowing Amtrak to have any access to those moneys I believe would be very shortsighted.

With the addition of this language which we have worked out on the Republican and Democratic side, we have actually a larger pot of money than we started with. That is good. With the addition of this amendment, we have the ability to enhance the safety and security of inner-city passenger rail operations and freight rail operations, too.

When I go home later this week, I will probably take the train. There is a tunnel that runs under this Capitol in which we work that is about 100 years old. There are concerns about the safety and security of trains that go through there. There is a tunnel under Baltimore that is about 130 or 140 years old. There are six tunnels that are about 100 years old which go in and out of New York City and under the rivers. They have problems with respect to ventilation, lighting, surveillance, and all kinds of safety concerns. They need to be addressed, and they can be addressed at least partly with money made available here.

Not all enhancements to safety and security for rail need to be as expensive as fixing old tunnels. Some of them can be as inexpensive as adding dollars for an old technology—the ability of our K–9 corps to detect bombs and explosives. It is as good today as it was 20, 30, or 40 years ago. With this money, those folks who are running our inner-city passenger rail will be able to better use K–9, if that makes sense, for detecting and ensuring our trains don't end up with explosives on board.

Again, in conclusion, we have come to a good place. This is not an amendment that, frankly, asks for more money. It is an amendment that actually enables us to use some common sense in allocating the moneys that have been added to the bill. It will allow us to enhance the safety and operation of our commuter operations, whether it be commuter trains or buses. Hopefully, we will also be able to use a good deal of this money to enhance the safety of inner-city passenger rail and some of our freight operations. For that, I think we can all be grateful.

I yield the floor.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3641) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I would like to read a list of supporters of the pending amendment which provides for emergency agricultural disaster assistance: the Alabama Farmers Federation, American Corn Growers Association, American Farm Bureau Federation, American Soybean Association, Georgia Fresh Fruit and Vegetable Association, Georgia Peanut Commission, National Association of Farmer Elected Committees, National Association of State Departments of Agriculture, National Association of Wheat Growers, National Barley Growers Association, National Cotton Council, National Council of Farmer Cooperatives, National Farmers Union, National Grain Sorghum Producers, National Milk Producers Federation, National Potato Council, National Sunflower Association, Southern Peanut Farmers Federation, U.S. Canola Association, USA Dry Pea & Lentil Council, USA Rice Federation, and Women Involved in Farm Economics.

Mr. President, I ask unanimous consent, if consent is necessary, to add as cosponsors to the pending amendment Senator COLEMAN of Minnesota, Senator DAYTON of Minnesota, and Senator CLINTON of New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I think the growing support indicates we should adopt this amendment. There may be a point of order raised. It would be a technicality. I hope if that is raised, Senators will vote to waive that point of order so we can help some people in America, farmers and ranchers in various States all around our country, who have suffered from drought disasters or, as in the case in North Dakota—it is very interesting—from flood disaster.

It was very sad listening to Senator CONRAD speak about North Dakota, how part of the State has been devastated by flooding, with 18 inches of rain in 1 day, if you can believe it. The average annual rainfall in the upper plains States is about 14 inches a year. They had 18 inches in 1 day. That is in one part of North Dakota. In another part of North Dakota, they have had the worst drought he has said he has seen in his lifetime.

I might say, the condition is somewhat similar to that in Montana. Northeast Montana is getting a little more moisture than it usually gets, but southwest Montana is getting a lot less than it normally gets. It is hard to know where we are going to get drought and where we are not. But there is drought.

We are asking to use the formulas that are in the law; that is, the Emergency Livestock Feed Program and the Crop Disaster Assistance Program. Let's use the formulas in the law. If they need disaster assistance, we should give it to them.

In addition, Mr. President, I ask unanimous consent to add Senator MURRAY as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. The more I speak, the more I am getting cosponsors. I ought to keep talking. They are coming in at a rate of about four a minute.

With that, I urge Senators to support this legislation.

TREES

Mrs. CLINTON. I would like to engage the Senator from Montana in a colloquy on Senate amendment No. 3636, the agriculture disaster assistance amendment. I appreciate his hard work in bringing this amendment forward. New York's farmers have suffered this year—both from heavy rains in July and from damaging winter frosts. In particular, both apple trees and grape vines were destroyed in New York this past winter. And while the losses for this year's crop will be covered by the crop disaster assistance provisions of this amendment, it is the tree assistance program that assists growers in replacing their lost trees and vines. So I thank the Senator for including that provision, and I would like to clarify with the Senator that the term ''tree'' as used in his amendment is used in the same way as it is defined in the 2002 farm bill. That is, term ''tree'' in this context means trees, bushes and vines, and would therefore assist New York's apple growers and grape growers alike.

Mr. BAUCUS. I thank the Senator from New York for her support of the amendment, and I assure her that the Tree Assistance Program provision in my amendment is intended to cover eligible losses of trees, bushes and vines.

Mrs. CLINTON. I thank the Senator for his assurance on this issue.

Mr. COLEMAN. Mr. President, I rise in strong support of the bipartisan amendment offered by my good friends and colleagues from Montana, Senators BAUCUS and BURNS, and am proud to be an original cosponsor of this measure important to my State of Minnesota.

Earlier this year, heavy precipitation and moisture prevented many farm families from planting a crop at all and not long afterward, many of them lost what they had planted. This led to a disaster declaration request for three especially hard hit counties along the Canadian border: Lake of the Woods, Roseau, and Marshall Counties.

Then, after a late start in the growing season, my State's farm families were hit with a bizarre August, yes August, freeze that took its toll on another at least 29 counties for which disaster declarations are being sought. This includes pretty much everything north of Interstate 94 that runs from the Twin Cities northwest toward Fargo Moorhead.

It's been said that Minnesota is a place with 9 months of winter and 3 months of poor sledding but a freeze in August even surprised us.

But all kidding aside, this has been a rough season for my farm families and depending on what happens in the next few weeks, it could get a lot worse and become a statewide problem. My farm families tell me, particularly south of I–94, that they need an extra 15 days of growing season beyond what is normal in order to get the heat units necessary to produce a decent crop. If they don't, they are looking at some of the lowest yields since the great flood of 1993, which I remember as the newly minted Mayor of Saint Paul when the same flood ripped up parts of our capitol city.

Now, I know some folks think that we should not be providing disaster assistance to my farm families. They note that my farmers already have insurance. In fact, better than 95 percent of my farm families do carry crop insurance. But, those who face other kinds of disasters also carry insurance, and yet this does not bar them from disaster relief—nor should it. In fact, folks who carry insurance on their cars, on their boats, on their businesses, and on their houses carry insurance that—save the deductible—allows them to recoup the market value of what they have lost. Not so with farmers. Our farmers have to absorb as much as 15 percent, 25 percent, 35 percent, and sometimes even more of their loss alone before they even begin to qualify under their insurance policy. So, disaster assistance is meant to help bridge the gap that exists for farmers but not for others.

This disaster assistance amendment is not out of bounds. It is the traditional level of disaster provided in past years. There is a crop disaster payment covering crops of every kind; a livestock assistance program that helps our livestock producers recoup feed costs resulting from natural disaster; and a quality loss program to help producers who do not suffer yield losses but suffer quality losses that cut into the price they receive in the market place.

Frankly, I believe it is time for us to put our heads together in a bipartisan fashion and craft a more coherent, predictable, fiscally responsible, and long-term policy that better addresses natural disasters. I know that this has been attempted in earnest numerous times in the context of crop insurance—with considerable success—as well as in the context of an emergency reserve or standing disaster program, albeit with less traction in this regard. But, clearly, we need to take another hard look at this issue and see what we can do about alleviating the need for ad hoc relief like this, which is not very reliable to those it's intended to help and not the best option in terms of Federal budgeting.

I urge the amendment's adoption, but I do so looking down the road a ways in hopes that, in the future, we find a new and better way of addressing these crises whose timing we can not always predict but whose occurrence we can certainly all foresee.

Mr. NELSON of Nebraska. Mr. President, I support our amendment to provide emergency drought disaster assistance for farmers and ranchers who have suffered under a prolonged—in some areas a 5 year—drought. I am pleased to be working with Senators CONRAD, BAUCUS, DORGAN, BURNS, ROBERTS and BROWNBACK to offer this amendment. It is a bipartisan amendment, with strong support. This amendment has the strong support of our national farm organizations, such as the American Farm Bureau Federation and the National Farmers Union.

Nebraska's facing its fifth straight year of record drought, which as you know has a damaging effect on the agriculture industry, as well as the main street of every Nebraska community. The same is true in Montana, North Dakota, Kansas and other States as well. Droughts, hurricanes, tornadoes and earthquakes, are natural disasters and deserve to be treated the same. Multiple years of drought have cost our Nation billions of dollars in economic losses and have many farmers wondering whether they'll be able to carry on.

We were successful in 2003 in getting assistance to our producers, but only at half the amount necessary. We passed a $3.1 billion assistance package that was offset with farm bill programs—a plan I opposed. I offered a $6 billion emergency assistance package that if it had passed; we probably wouldn't be here today seeking what we were denied in 2003.

I have continuously worked for the additional assistance we have been unable to secure. I have repeatedly called on the President and Congress to support funding for drought aid for our farmers and ranchers, and to fully fund the crop and livestock disaster programs so critical to Nebraska's farmers and ranchers. This is of the utmost importance to farmers and ranchers in Nebraska and across all the areas suffering from this natural disaster.

The estimated cost for this disaster assistance is $2.9 billion. The assistance will be provided through emergency assistance in the form of a Corp Disaster Program, Quality Loss Program and a Livestock Assistance Program. This assistance is targeted to those who need it most. It will help recover eligible losses sustained by producers in counties designated as primary or continuous disaster areas during the 2003 or 2004 production years.

Producers can choose to claim losses for either the 2003 or 2004 production years, but not both years. This flexibility will allow for ranchers and producers to seek assistance for the year with the greatest negative impact on their farm operation.

I am happy to report that a similar effort is underway in the House of Representatives. Nebraska's own TOM OSBORNE is leading a bipartisan effort to secure relief for agriculture producers. I am hopeful that my Senate colleagues will join me in supporting this amendment. We must respond to the crisis this drought has caused in Nebraska and our Midwestern neighbors.

Mr. BURNS. Mr. President, I am pleased to join my fellow Senator from Montana in sponsoring this agricultural disaster amendment. Agriculture is Montana's largest industry, and these persistent weather-related losses are devastating to our economy. Farmers and ranchers across the country are

struggling to cope with weather-related disasters, and this amendment will deliver needed relief to those producers. Whether we are talking about hurricanes, floods, or the prolonged devastation caused by drought, some of our producers are barely hanging on.

I am particularly happy that this amendment responsibly targets assistance to those individuals who need it most. It provides crop disaster assistance, livestock disaster assistance, and funds for the American Indian livestock feed program. It allows producers to choose which year's losses 2003 or 2004 were the worst. In Montana, most folks suffered the biggest losses in 2003. Our crop losses that year were over $70 million. Livestock producers in many counties in 2003 lost a good percentage of their pasture land to drought. For others, 2004 may have been the year that nearly finished them off. Nearly half of our grazing land is in poor or very poor condition. Record low streamflows are still being recorded, and our reservoirs are nearly empty. And even though some of our wheat producers had good yields, topsoil moisture is still well below average. The drought is far from over in Montana, and throughout the West. Some folks need the assistance for 2003 losses, others for severe weather losses incurred this year. This amendment will let farmers and ranchers make the right choice, based on their individual situation.

I know some of my colleagues have concerns about the price tag of this bill, and I admit it worries me too. But there are people back home who might not make it another year if they don't get relief from the impacts of a 6-year drought. Drought is a silent killer. It doesn't make headlines, and few television stations report on it. This assistance is essential for those people just like it is critical for farmers with flooded cropland, or producers with unexpected summer frost damage. This bill is targeted to just those who meet certain loss thresholds, to make sure that assistance goes where it is most needed, whether that need be in Florida, Maine, or Montana. We cannot discriminate between producers or disasters.

I thank my colleagues for their support of this amendment, and look forward to its adoption.

Mr. ROBERTS. Mr. President, today I rise in support of the Baucus amendment. This amendment ensures that farmers and ranchers across the country will receive assistance for losses sustained through natural disasters.

In Kansas this assistance is critical to provide aid to our farmers and ranchers who have been hit hard by a multiyear drought. While many have viewed the terrible destruction wrought across Florida and the Southeastern U.S. by successive hurricanes in recent weeks, I cannot forget the terrible drought that has continued to grip much of the western portion of Kansas.

I also cannot forget the eerie photographs, taken earlier this summer, of a giant dust cloud that swept across western Kansas. This dire result of continuous drought caused Interstate 70 to shut down, its dust inundated homes and hospitals and even caused a tragic traffic accident that claimed the life of a distinguished Kansan, the late State Senator Stan Clark.

It may surprise my colleagues, but I am no fan of Federal disaster programs for agriculture. They are difficult to pass and often a disaster to implement.

It is unfortunate that the current farm bill, which I voted against, does not provide producers with assistance when they need it most—when there is no crop to harvest.

Without the crop insurance program, which I fought to improve and enhance in 2000, and additional Federal disaster aid, many Kansas producers might not be around another year to continue participating in the current farm bill.

Mr. President, I stand in support of the Baucus amendment. I urge my colleagues to do the same.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I have been in a markup of the Appropriations Committee for the past several hours. I wanted to be here when my colleagues offered the disaster relief legislation. I was not able to be here at that point, but let me add to the comments that have been made by my colleague from Montana, Senator BAUCUS, and my colleague from North Dakota, Senator CONRAD, and many others.

The amendment that has been offered, as a bipartisan amendment on behalf of Republicans and Democrats who represent a significant part of farm country, is to ask the Congress to consider passing a disaster bill to respond to weather-related disasters in our part of the country.

Let me begin by saying it is my intention that I would support all and any resources that are necessary to respond to those who have been devastated by successive hurricanes.

Those in Florida and other parts of the Southeast, and now those in the gulf area who may well be hit by another hurricane, have had a devastating time of it. It is sad to see the plight of the victims on television when these hurricanes come through and destroy property and destroy homes and destroy livelihoods. It is a pretty awful scene. When that happens, this country has an obligation to extend its hand to those victims and say: You are not alone. This country wishes to help.

I have always voted in favor of disaster assistance and always will because it is part of what this country needs to do for those who have been hit with tough times. That is certainly the case with respect to those hit by the successive hurricanes in the southern part of our country. My colleague from Montana and others have said that as devastating as those hurricanes are—and it is hard to adequately describe the devastation—there are, in addition to the damage from those hurricanes, other areas of the country that have suffered weather-related disasters.

My State is one of those States. I will describe what has happened in my State.

I have toured throughout the entire State of North Dakota in the past months. In the northern part of our State, torrential rains in the spring that came and stayed in a torrent of moisture meant that 1.7 million acres of ground could not even be planted in North Dakota. Obviously, that is a serious economic problem for our State, but it is a devastating circumstance for a farmer that had all of their ground inundated by these torrential rains and couldn't plant an acre. That is a personal circumstance that is very difficult because they will lose all of their revenue. Many of them will go out of business. That is a time when disaster assistance is necessary.

In other parts of North Dakota in the southwestern corner, I had ranchers tell me that from January 1 to July 1, they received 2.2 inches of moisture total in 6 months. One can imagine what their crops look like.

These are two pictures from my State. They describe the circumstances faced by producers. This is a field inundated with water. It would not have been planted, and this farmer would not have an opportunity to make a living by planting this field because the field will be prevented from being planted by this water.

This, in the same State, looks like a moonscape. It is an area that is completely without moisture, a pastureland that has no growth. These are from the same State in the same year.

We had, in addition to the torrential rains and the drought in different parts of the State, in the month of August, strangely enough, a frost, and then a freeze. What happened as a result? My colleagues can look at a cob of corn. This shows a healthy cob of corn. That is what you get when you produce it and you have the heat units and you are able to harvest and pick the corn. Here is what happens when you have a freeze in August, exactly when corn needs heat units to grow. Perhaps even more dramatic, here is what a healthy field of soybeans looks like. We have a lot of acres of soybeans. It looks great, a beautiful green field.

Here is what that same field looks like after you have a freeze in the month of August when you need the heat units to be able to have these beans reach maturity and growth.

It is estimated by North Dakota State University that in North Dakota,

the impact of these weather-related disasters was about $1 billion total. The impact on farmers is more than half a billion dollars. And that which is above that, which crop insurance would pay, is over a third of $1 billion. That is a weather-related series of disasters that is significant and troubling to the producers in our State.

My colleague described the circumstances in Montana. Others will describe circumstances in their States. The point is, this damage was not from a hurricane that came with a fury and in just a matter of days blew its way through and devastated a lot of property. In most cases, this was either a slow motion drought that just drained the life from the soil, or torrential rains, as happened in the northern part of North Dakota that made 1.7 million acres unplantable. Those, too, are weather-related disasters and circumstances in which the Congress should want to—and I expect will want to—reach out its hand to say you are not alone to family farmers and ranchers trying to make a living, trying to survive tough times, trying to deal with weather-related disasters by themselves.

I hope this Congress will, once again, say to those family farmers and ranchers: You are not alone. You don't have to deal with this by yourself because we know you can't. When you lose all sources of revenue for an entire year, then we want to help.

I have served in the House and the Senate. I don't believe I have ever failed to support disaster assistance when it is necessary. I will continue to aggressively support disaster assistance again now for the people of Florida, the Southeast, the people in the gulf region who may be hit. We need to pass that disaster assistance. I will strongly support that.

The amendment being discussed is offered by my colleague and me and others who say there are other weather-related disasters as well that we need to deal with in this bill. We expect our colleagues will understand that. But it should not in any way be misinterpreted as wanting to hold up the necessary resources to deal with and to help make whole those—I guess we probably never make whole people who have suffered a disaster, but at least to say to those folks who have been hit over and over again by the vicious hurricanes: You are not alone. This country wishes to help. We are determined to do that.

I am pleased to at least raise my voice to say I am going to be one person who supports aggressively that which is needed for the citizens of Florida and other parts that have been affected by hurricanes. My hope is that they, too, will help our family farmers and ranchers in South Dakota and North Dakota, Montana, and other regions of our northern Great Plains that have been hard hit by weather-related disasters this year.

Mr. JOHNSON. May I put a question to my colleague?

Mr. DORGAN. I am happy to yield for a question.

Mr. JOHNSON. We all feel for the enormous damage that has occurred in the State of Florida, and there is great risk that there will be additional damage in other Southern States from these hurricanes. One of the great problems that strikes me about the kinds of disasters we are talking about in the northern plains, where we have had this severe drought year after year after year, and the Missouri River now, I am told, is at the lowest level in living memory, or at least since it was impounded into the Missouri River Dam, one of the characteristics of that kind of disaster is that it is as profound as a hurricane, but it is in slow motion. It does not turn buildings upside down, and it doesn't throw cars around. But what it does to the Earth and the lives of these producers is catastrophic.

I am especially pleased with the recently adopted drought provision to the American Jobs Creation Act. With my support, the Senate adopted legislation authored by Senator DASCHLE that would provide increased flexibility for livestock producers to rebuild their herd after drought. The legislation extends the amount of time from two to four years that producers have to reinvest an amount equivalent to the sale of cattle into their farm through the purchase of machinery or equipment with no tax owed whatsoever. Unfortunately, the American Jobs Creation Act has failed to emerge from conference so that it can be voted on by this body. I am hopeful that we will see this bill emerge from conference soon, and that this exceptionally beneficial provision will be included.

The United States Department of Agriculture (USDA) released $1.9 million in unused Emergency Conservation Program (ECP) funding for stopgap water hauling measures, and authorized emergency grazing on Conservation Reserve Program (CRP) acres in limited counties across the country. In South Dakota, only parts of a few counties have qualified for emergency grazing. These measures fail to provide any substantive relief for our agriculture producers during an exceedingly challenging time. I am also concerned for the Agriculture Secretary's recent decision regarding emergency nonfat dry milk assistance. Although nine states and 95 counties were included in this program, South Dakota was excluded from this assistance.

In 2002 and 2003, Senator DASCHLE and I pushed for a $6 billion drought relief plan that would have helped many farmers and ranchers make it through this multi-year drought. President Bush and others in the Senate opposed our proposal and in the end, would only allow a $3 billion package to pass. While it has taken an enormous amount of time and effort to secure bipartisan support for relief in such a harsh budgetary year, I am pleased to see that Senators from both sides of the aisle recognize the importance of ensuring that victims of agriculture disaster are deserving of a comprehensive assistance package. I am pleased to support this amendment and am hopeful for the impact on South Dakota agriculture.

I have walked across fields of South Dakota that frankly look like a moonscape, where there is nothing growing. It is simply dirt. Stock dams where there is either no water, or the water is of such poor quality, it is so murky that it would be a mistake to allow cattle even near the water. In fact, there are stories of pulling cattle out with a tractor because they get mired in the mud. It would seem to me that this disaster, although different in nature than the others, is equally as profound, equally as damaging, and has an equally long-term negative consequence on those who are victimized as any other disaster that may be striking America today.

Does my colleague see it in that perspective?

Mr. DORGAN. Senator JOHNSON has described well the circumstance in a number of areas.

I have seen big, strong family farmers and ranchers with tears in their eyes describing circumstances where they approached this year with some hope and then discovered that almost everything they intended to do was gone. The grain they planted was washed away, or the field they intended to plant was inundated with water and they couldn't plant it, or in the Southwest they planted seeds and they never grew because they got no moisture. It is a devastating circumstance.

The network of farmers around this country who live on the land, under that yard light all by themselves, they live on hope. They risk everything in the spring to put a seed in the ground. They live on hope that somehow it will grow, that somehow they won't get too much rain but they will get enough rain, that they won't have crop disease, that all of these things will happen, and they will be able to harvest and maybe somehow there will be a good price when they harvest.

But it has been devastating when they can't plant a seed that will grow because there is no moisture, or when they can't plant a seed at all because the water has inundated their land. They set their jaw and they act like, well, they will get through this. But many of them have told me that they won't get through this. You can't live without income, especially with the cost of doing business on family farms these days.

That is why at this time, in this circumstance, my colleagues who have joined in offering this amendment are simply saying let's say to these folks as well you are not alone. They have had a tough time. This, too, is a weather-related disaster. Let's recognize it and deal with it in an appropriate way. That is what this legislation does.

We have done this before. It is time now, and there is a need to do it again—to say to family farmers and ranchers in this country: You matter; we care whether you exist out there. You are part of the culture of this country in which family values exist, nurturing, refreshing families' values from small towns to big cities.

That is part of the important culture of this country. When they are in trouble, this country is in trouble. I hope we will agree to advance this amendment as we will advance all the help necessary for the hurricane victims.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I will make a few comments concerning the Baucus amendment requesting $2.65 billion of drought assistance. I have two or three comments. One, it doesn't belong on this bill. This is the Homeland Security bill. This is not an agriculture bill, not even an urgent supplemental bill.

Senator REID, the assistant minority leader, has stated repeatedly let's do the supplemental separately from Homeland Security. I happen to think he is right. One could debate it, but he stated repeatedly and recommended strongly to the Senate to have a separate bill on the President's request.

The President requested yesterday $3.1 billion for hurricane relief. He requested it yesterday. That doesn't mean it has to be done on the Homeland Security bill. Senator REID thought it should not be on this bill. We don't even have that amendment. The President didn't request drought assistance. I looked back over the history of drought assistance and I see a lot of requests. In 2002, we had $600 million, I guess, in drought assistance. In 2003, it was $3.6 billion.

But I might say it was offset by reductions in other programs in the Agriculture Committee. How can we pay for this request, because we don't have the Agriculture bill up to have offsets? This bill is not offset. This is just to add $2 billion or $3 billion of additional money. I would like to have it be paid for. I might support it if it is paid for. I might not. I want to see how it is paid for. I know in this case it is not paid for. It would add to the deficit. I am not willing to do that. So a budget point of order will lie against the amendment, and this Senator plans on making one.

I don't think this is the way we should do business. I think we should follow the regular order, to the extent we can. We should be talking about an appropriations bill and maybe consider the President's request. If Congress wishes to change it or alter it, I guess we have the right to do so. But to try to double it, when we just got the President's request, and not even consider an offset, not even look at an offset, I think is a serious mistake.

I don't know if this is more about helping farmers or politicians. If you want to help farmers, I think we can find a couple billion dollars in offsets. We did last year. Why can we not find an offset to pay for it this year?

I make those comments. Senator REID urged us time and again to do the urgent supplemental separate from Homeland Security. We just received the President's request, which was $3.1 billion, and it didn't include this. To pass an urgent emergency supplemental takes 60 votes, and it is this Senator's intention to hopefully join with Senator COCHRAN and Senator STEVENS in objecting to the emergency designation and making the budget point of order on this amendment, and passing Homeland Security.

Let's finish the job we have at hand. We have a real problem. Senator COCHRAN has done an outstanding job in managing the bill. He has already defeated amendments that totaled over $19 billion—not including the amendments this afternoon—for 2004, and $256 billion I think over a 10-year period of time, using budget points of order. A budget point of order lies against this amendment as well.

So I compliment Senator COCHRAN for his leadership and urge our colleagues who are pushing this amendment to postpone it, hold it back another day, or find offsets to help pay for it. That is what we did last year. It had strong support last year after it was paid for.

If memory serves me correctly—and I am stretching it—early last year we considered this and, initially, people tried to pass it without offsets. Objections were raised and eventually some offsets were found. That was done in the early part of last year. That was done in February of 2003. I don't think we should just be adding another $2.5 billion to our debt and deficit in this manner. So I urge our colleagues, at the appropriate time, to support a budget point of order against this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, the amount just referred to as an urgent supplemental requested by the President of $3 billion is the money that is requested by the President for Florida's two hurricanes that just hit us. It does not include any amount for agricultural losses. The $3.1 billion includes Department of Defense losses, NASA losses, Small Business Administration losses. FEMA itself is $2 billion of that, with all of these ongoing expenses of the back-to-back hurricanes.

What is missing from the President's request is the agricultural losses, which are substantial, from these two hurricanes. For example, the citrus crop alone is over $½ billion in losses. The nursery industry, which is a huge industry in Florida, has losses of $½ billion.

Now, the question is, How do we address this? I was expecting that the President was going to include the agricultural losses in his request. He has not. So how do we address this, since the needs are obviously there?

Presently, there are discussions going on between my office and the sponsors of this amendment. There is a little bit in this amendment for Florida agricultural losses from the two hurricanes, but it is somewhere in the range of $150 million to $300 million. That is a drop in the bucket compared to what the elected Florida agriculture commissioner has totaled up the losses at, which is $2 billion.

It is my hope that we are going to be able on this amendment—if we proceed with this amendment, I will certainly support it because, as all of these Senators from the Midwest, both Republican and Democrat, say, disaster doesn't know anything about partisan politics. Disaster knows something about hitting people where it hurts them, and that is one of the reasons you have the Federal Government to protect people and to respond in times of disaster.

So I am going to help these Senators with their amendment. What I am hoping is that through our discussions we can expand this so it can be acceptable and address the needs of Florida agriculture after these back-to-back hurricanes. If those discussions are not fruitful, then it is my intention that I will offer an amendment to this bill for the disaster to Florida agriculture. That will be somewhere in the range of about a billion dollars in losses, which will not even get anywhere close to the estimated $2 billion, but it will be a step in the right direction.

Now, this is, as you know, ''no fooling'' time.

We have just been hit by two hurricanes. There is a third on the way. And until 2 days ago, that third one was headed for Florida. As a matter of fact, until a day ago, that third one was headed for Florida, and that centerline now on the projected path is shifting to the West, and that centerline is headed straight for the State of the Senator from Mississippi.

We know there is an error because in hurricane path projection, it can either go to the right or to the left. In the projected path, it can go all the way over into the panhandle of Florida, or it can go all the way to the left, as far as New Orleans. It is about a day out. It is churning in the Gulf of Mexico, moving in a northward direction.

What I am saying is if it continues on its present path to Mississippi or to Alabama or to Louisiana, there are going to be other Senators who are going to be in here trying to help their people. This Senator is going to help them when that happens because that is the right thing to do. Now it is the right thing to do to help the people of Florida.

I yield the floor, Mr. President.

Mr. COCHRAN. Mr. President, I do not know if there are other Senators who wish to continue to debate. If there are, this would be a good time to do it.

Mr. BAUCUS. Mr. President, very briefly, I heard two arguments from one Senator as to why this pending amendment, agricultural disaster assistance, should not pass. It is a very technical argument that it violates the Budget Act.

I remind my colleagues, the unanimous consent agreement that applies to this bill, to this amendment basically says first-degree amendments are in order: First-degree amendments are in order, that they be related to the text of the bill, homeland security, and also natural disasters.

This is a natural disaster amendment. It clearly is contemplated by the unanimous consent agreement. The argument was made: Not on this bill. That is clearly not an argument because the unanimous consent agreement clearly contemplates amendments that relate to natural disasters. So that argument is gone. That is wrong.

The second argument was made: Gee, the cost violates the Budget Act. A very simple point I make is if one wants to press that argument, it also applies to disaster assistance for the State of Florida.

Agricultural disaster assistance is the same as Florida hurricane disaster assistance under the Budget Act. They are the same. They are technically the same. There can be a point of order made against both. Sixty votes are required. I do not know whether the other side is going to make a point of order against the Florida hurricane disaster assistance. I frankly doubt it. I think it would be very unwise. The very same law, the Budget Act, applies to the pending amendment, which is the amendment providing for agricultural disaster assistance.

I say to my colleagues, what is sauce for the goose is sauce for the gander. We are Americans, and let's work together as Americans. Let's help people who need help, and those are our farmers, ranchers, and Floridians because of the hurricanes—all of us. I see no reason why a point of order should be made. And, second, if it is made, I see no reason why the point of order should be sustained. We are talking again about natural disasters that apply—this amendment does not apply to Florida, but it is tied with it because we are going to have that in the next several days. They are all the same. We are all in the same boat.

I very much hope this does not become a partisan political measure. I do not think it is. I remind my colleagues of the bipartisan support of this amendment. Senator BROWNBACK of Kansas is a cosponsor. Senator BURNS, my colleague from Montana, is a cosponsor of this amendment. Senator COLEMAN from Minnesota told me an hour ago he wants to be a cosponsor of this amendment. Senator ROBERTS of Kansas is a cosponsor of this amendment. Senator HAGEL of Nebraska is also a cosponsor of this amendment. I hope Senators can all work together. Let's help each other. Let us help people in various parts of our country, not only in Florida, but in other parts of America who are hurt very much by agricultural disasters.

Mr. President, I yield the floor. I do not know what the chairman has in mind, but I hope whatever it is we can move rather quickly.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. I know some Senators who are interested in this issue are in discussions off the Senate floor, and pending completion of those, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I wish to speak briefly in favor of the Baucus amendment because of the situation in my home State. Parts of my State have had the worst drought in a century. It is being compared by some veteran farmers to what they witnessed in the Dust Bowl era—crops withering and dying in the fields before the farmers' eyes without any ability to address it.

I grew up on a farm. My family still farms. I was secretary of agriculture in Kansas. I have seen these situations.

The one point I want to add—I think people pretty well understand these issues—what I want to address is that in some disaster relief—and we seem to be in a cycle because we have disasters hitting every year, but it is a compassionate society that tries to help those in the worst situation. But more than that, they do not win if they get hit by a disaster and then we do disaster drought assistance. I have not seen people come out ahead.

What we try to do is get them back toward zero so they do not lose too much money, so they can continue to farm and continue to operate their ranch and work their crops. That is what we are trying to do, to help people sustain themselves and not have to go out of business altogether. They are not hitting the jackpot when we pass these types of bills. They are simply trying to sustain themselves in their operations—a commodity-based business. Margins are thin, and it is difficult to make it. So we try to help them.

Crop insurance is helpful, it is important, but despite its critical value to farmers, it cannot mitigate effects of prolonged drought and its impact in the area. And the weather condition has been building for several years. Fortunately, in areas of my State this has broken. Not all areas.

I was at the State fair this past weekend and people continue to cite the problem they are having with the drought and this continuing cycle of lack of rainfall.

I support the Baucus amendment. I appreciate him raising it.

It is difficult because we are in a budget situation where we all want to get this budget more under control. Yet I do not think that is the place to do it in a situation where we have people suffering because of natural disasters or natural causes. So I am pleased that the amendment has been brought up. I am a cosponsor and am pleased to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I certainly appreciate the efforts of the Senator from Montana to make certain our farm families do not lose, as the Senator from Kansas said, because of the droughts that have periodically struck the Midwest. Missouri has suffered as well. I am very interested in this issue being worked out in a way that is satisfactory.

I do want to take a minute, though, on a different subject to thank the ranking member and the chairman for what I understand is an agreement on a sense-of-the-Senate resolution I have offered in the form of an amendment, and I think it is going to be added later on a voice vote. I believe it has been cleared on both sides. I wanted to make the Senate aware of the importance of this subject.

We had a situation in St. Louis last year where our local Jewish community was hosting the Maccabee Games. It is an international event where Jewish youths come and participate in effect in Olympic games. Obviously, it is an event with special security risks in today's day and age. Locally, we needed several hundred thousand dollars in extra funds for security.

The State had the Federal homeland defense money but not in the right account, and despite all of our efforts on a Federal, State, and local level, we were unable to free up dollars to provide for the necessary security. It ended up being okay, but it did not have to end up okay. As a result of that, I have become very interested in allowing at least some discretion on the part of the Secretary and the Director of the Office for State and Local Government Coordination to approve waiver applications on the part of the State to reprogram some of their Federal grant homeland money when some new kind of security issue arises that was unforeseen when they originally applied for those grants.

So the sense-of-the-Senate resolution in effect says that we ought to be able to do that. It is a first step toward what I hope will be a successful change in the law by allowing this kind of discretion in these kinds of cases.

I ask Senators to think about the situation because it could come up in anybody's State where an unforeseen new security risk arises and their local authorities have to spend substantial dollars in order to be able to deal with it. That is exactly what we have this

homeland defense money for. Under certain circumstances, they will be unable to access it without some kind of discretionary waiver authority being allowed the department. I hope we can follow up on this sense-of-the-Senate resolution with an appropriate change in the underlying authorization.

Again, I appreciate the help of the Senator from Mississippi and the distinguished Senator from West Virginia in getting this amendment cleared.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I am pleased to advise the Senate that we have been able to reach agreement to recommend approval of several amendments offered by Senators on both sides of the aisle. I am prepared to propound a unanimous consent request.

AMENDMENTS NOS. 3589, 3603, 3611, 3633, 3634, 3635, 3638, 3640, 3642, AND 3645, EN BLOC

I ask unanimous consent that the Senate proceed to the en bloc consideration of the following amendments: No. 3589 proposed by Mr. ALLARD; No. 3611 proposed by Ms. MIKULSKI; No. 3634 proposed by Mrs. BOXER; No. 3603 proposed by Ms. LANDRIEU; No. 3640 proposed by Mrs. BOXER; No. 3642 proposed by Mrs. BOXER; No. 3633 proposed by Mr. REED of Rhode Island; No. 3638 proposed by Mr. HATCH; No. 3635 proposed by Mr. FEINGOLD; and No. 3645 proposed by Mrs. DOLE.

I understand these amendments are cleared on both sides of the aisle, and I urge that they be adopted en bloc.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the amendments en bloc.

Mr. COCHRAN. I ask unanimous consent that the amendments be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments are agreed to.

The amendments were agreed to, as follows:

AMENDMENT NO. 3589

(Purpose: To provide for a report on common geospatial awareness of critical infrastructure)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. (a) Not later than 3 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives and to the Committee on Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives on the implementation of Homeland Security Presidential Directive Seven.

(b) The report under this section shall include—

(1) the Department's plan and associated timeline for the mapping of the United States critical infrastructure;

(2) an assessment of the resource requirements of relevant States, counties, and local governments so that full participation by those entities may be integrated into the plan;

(3) the Department's plan for oversight of all geospatial information systems management, procurement, and interoperability; and

(4) the timeline for creating the Department-wide Geospatial Information System capability under the direction of the Chief Information Officer.

AMENDMENT NO. 3603

(Purpose: To require a GAO report on employment discrimination complaints relating to employment in airport screener positions in the Transportation Security Administration)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. (a) Congress finds that (1) there is disproportionate number of complaints against the Transportation Security Administration for alleged violations of equal employment opportunity and veterans' preference laws as those laws apply to employment of personnel in airport screener positions in the Transportation Security Administration, and (2) there is a significant backlog of those complaints remaining unresolved.

(b)(1) Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the personnel policies of the Department of Homeland Security that apply to the employment of airport screeners in the Transportation Security Administration, particularly with regard to compliance with equal employment opportunity and veterans' preference laws.

(2) The report under this subscription shall include an assessment of the extent of compliance of the Transportation Security Administration with equal employment opportunity and veterans' preference laws as those laws apply to employment of personnel in airport screener positions in the Transportation Security Administration, a discussion of any systemic problems that could have caused the circumstances giving rise to the disproportionate number of complaints described in subsection (a), and the efforts of the Secretary of Homeland Security and the Under Secretary for Border and Transportation Security to eliminate the backlog of unresolved complaints and to correct any systemic problems identified in the report.

(3) In conducting the review necessary for preparing the report, the Comptroller General shall examine the experience regarding the airport screener positions at particular airports in various regions, including the Louis Armstrong New Orleans International Airport.

AMENDMENT NO. 3611

(Purpose: To ensure the fiscal year 2004 overtime cap applies to certain Customs Service employees)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. Notwithstanding any other provision of law, the fiscal year 2004 aggregate overtime limitation prescribed in subsection 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 261 and 267) shall be $30,000 and the total amount appropriated by title II under the heading ''CUSTOMS AND BORDER PROTECTION SALARIES AND EXPENSES'' is hereby reduced by $1,000,000.

AMENDMENT NO. 3633

(Purpose: To require a report on processes for issuing required permits for proposed liquefied gas marine terminals)

On page 14, line 19, strike the period and insert the following: '': *Provided further*, That not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives, a report on opportunities for integrating the process by which the Coast Guard issues letters of recommendation for proposed liquefied natural gas marine terminals, including the elements of such process relating to vessel transit, facility security assessment and facility security plans under the Maritime Transportation Security Act, and the process by which the Federal Energy Regulatory Commission issues permits for such terminals under the National Environmental Policy Act: *Provided further*, That the report shall include an examination of the advisability of requiring that activities of the Coast Guard relating to vessel transit, facility security assessment and facility security plans under the Maritime Transportation Security Act be completed for a proposed liquefied natural gas marine terminal before a final environmental impact statement for such terminal is published under the Federal Energy Regulatory Commission process.''.

AMENDMENT NO. 3634

(Purpose: To require reports on the Federal Air Marshals program)

On page 39, between lines 5 and 6, insert the following new section:

SEC. 515. Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the Secretary of Homeland Security shall provide to the Committee on Commerce, Science, and Transportation and the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate, a classified report on the number of individuals serving as Federal Air Marshals. Such report shall include the number of Federal Air Marshals who are women, minorities, or employees of departments or agencies of the United States Government other than the Department of Homeland Security, the percentage of domestic and international flights that have a Federal Air Marshal aboard, and the rate at which individuals are leaving service as Federal Air Marshals.

AMENDMENT NO. 3635

(Purpose: To provide a data-mining report to Congress)

At the appropriate place, insert the following:

SEC. ___. DATA-MINING REPORT.

(a) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term ''data-mining'' means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government or a non-Federal entity acting on behalf of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist, criminal, or other law enforcement related activity.

(2) DATABASE.—The term ''database'' does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(b) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—The head of each agency in the Department of Homeland Security or the privacy officer, if applicable, that is engaged in any activity to use or develop data-mining technology shall each submit a public report to Congress on all such activities of the agency under the jurisdiction of that official.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology, the plans for the use of such technology, the data that will be used, and the target dates for the deployment of the data-mining technology.

(B) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(C) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(D) Any necessary classified information in an annex that shall be available to the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(3) TIME FOR REPORT.—Each report required under paragraph (1) shall be submitted not later than 90 days after the end of fiscal year 2005.

AMENDMENT NO. 3638

(Purpose: To retain the uniqueness of the United States Secret Service within the Department of Homeland Security)

At the appropriate place, insert the following:

SEC. ____. None of the funds available in this Act shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

AMENDMENT NO. 3640

(Purpose: To protect the security of the Federal Air Marshals)

On page 39, between lines 5 and 6, insert the following new section:

SEC. 5____. No funds appropriated or otherwise made available by this Act shall be used to pursue, implement, or enforce any law, procedure, guideline, rule, regulation, or other policy that exposes the identity of an air marshal to any party not designated by the Secretary of the Department of Homeland Security.

AMENDMENT NO. 3642

(Purpose: To require a report on protecting commercial aircraft from the threat of man-portable air defense systems)

On page 39, between lines 5 and 6, insert the following new section:

SEC. 515. (a) The Secretary of Homeland Security, in coordination with the head of the Transportation Security Administration and the Under Secretary for Science and Technology, shall prepare a report on protecting commercial aircraft from the threat of man-portable air defense systems (referred to in this section as ''MANPADS'').

(b) The report required by subsection (a) shall include the following:

(1) An estimate of the number of organizations, including terrorist organizations, that have access to MANPADS and a description of the risk posed by each organization.

(2) A description of the programs carried out by the Secretary of Homeland Security to protect commercial aircraft from the threat posed by MANPADS.

(3) An assessment of the effectiveness and feasibility of the systems to protect commercial aircraft under consideration by the Under Secretary for Science and Technology for use in phase II of the counter-MANPADS development and demonstration program.

(4) A justification for the schedule of the implementation of phase II of the counter-MANPADS development and demonstration program.

(5) An assessment of the effectiveness of other technology that could be employed on commercial aircraft to address the threat posed by MANPADS, including such technology that is—

(A) either active or passive;

(B) employed by the Armed Forces; or

(C) being assessed or employed by other countries.

(6) An assessment of alternate technological approaches to address such threat, including ground-based systems.

(7) A discussion of issues related to any contractor liability associated with the installation or use of technology or systems on commercial aircraft to address such threat.

(8) A description of the strategies that the Secretary may employ to acquire any technology or systems selected for use on commercial aircraft at the conclusion of phase II of the counter-MANPADS development and demonstration program, including—

(A) a schedule for purchasing and installing such technology or systems on commercial aircraft; and

(B) a description of—

(i) the priority in which commercial aircraft will be equipped with such technology or systems;

(ii) any efforts to coordinate the schedules for installing such technology or system with private airlines;

(iii) any efforts to ensure that aircraft manufacturers integrate such technology or systems into new aircraft; and

(iv) the cost to operate and support such technology or systems on a commercial aircraft.

(9) A description of the plan to expedite the use of technology or systems on commercial aircraft to address the threat posed by MANPADS if intelligence or events indicate that the schedule for the use of such technology or systems, including the schedule for carrying out development and demonstration programs by the Secretary, should be expedited.

(10) A description of the efforts of the Secretary to survey and identify the areas at domestic and foreign airports where commercial aircraft are most vulnerable to attack by MANPADS.

(11) A description of the cooperation between the Secretary and the Administrator of the Federal Aviation Administration to certify the airworthiness and safety of technology and systems to protect commercial aircraft from the risk posed by MANPADS in an expeditious manner.

(c) The report required by subsection (a) shall be transmitted to Congress along with the budget for fiscal year 2006 submitted by the President pursuant to section 1105(a) of title 31, United States Code.

AMENDMENT NO. 3645

(Purpose: To provide that funds appropriated to the Bureau of Customs and Border Protection be used to enforce the provisions relating to textile transshipments provided for in the Customs Border Security Act of 2002, and for other purposes)

On page 6, line 2, strike the period and insert '': *Provided further*, That of the total amount provided, not less than $4,750,000 may be for the enforcement of the textile transshipment provisions provided for in chapter 5 of title III of the Customs Border Security Act of 2002 (Public Law 107–210; 116 Stat. 988 et seq.).''.

On page 8, line 18, strike the period and insert '': *Provided further*, That of the total amount provided for, not less than $4,750,000 shall be for the enforcement of the textile transshipment provisions provided for in chapter 5 of title III of the Customs Border Security Act of 2002 (Public Law 107–210; 116 Stat. 988 et seq.).''.

AMENDMENT NO. 3638

Mr. HATCH. Mr. President, I rise to speak in favor of an amendment that I offer together with my colleague from Vermont, Senator LEAHY. Senator LEAHY serves as ranking democrat member of the Judiciary Committee, which I chair.

The purpose of the Hatch-Leahy amendment is to help ensure that the United States Secret Service continues to carry out its most critical functions, including the protection of the President of the United States. The Secret Service has a distinguished history over a 139 year period of protecting the President and protecting the financial institutions of this country.

This amendment clarifies that the Secret Service shall be maintained as a distinct entity within the Department of Homeland Security, forbidding it from being merged with any other subunit within the Department. And, it makes clear that Secret Service personnel report directly to the Director of the Secret Service who, in turn, reports directly to the Secretary of Homeland Security.

It is important that the Secretary not re-delegate any of his or her authority to other DHS officials or entities nor to unduly interfere with the unique historical relationship that exists between the President and White House and the Secret Service. That is the intent of the Hatch-Leahy Amendment.

This is a codification of what was originally intended when we created the Department of Homeland Security and ensures that the Secret Service operates within the Department of Homeland Security just as it did prior to September 11 within the Department of Treasury.

Given its proven track record of performance and independence, we must

guard against this relatively small but critical agency from being lost in or swallowed up by the myriad of programs and entities within the new Department of Homeland Security. Any attempt by DHS managers, however well-intentioned, to interpose themselves in the decision making processes, resource allocations, and field operations of the Secret Service should be avoided.

Simply stated, there is much wisdom in the old saying that ''if it ain't broke, don't fix it.'' The Secret Service has operated well in the past and operates well today. The Hatch-Leahy Amendment will help provide the autonomy and responsibility that will help keep the Secret Service operating well in the future.

We made a similar clarification with the Coast Guard and should do the same for the Secret Service. I believe that this clarification of intent, and delineation of reporting requirements, will ensure that the mission of the Secret Service remains clear, definite, and unimpeded.

Senator LEAHY and I urge all of our colleagues to support this important amendment which I understand is supported by the administration.

Mr. LEAHY. Mr. President, I have worked closely with the United States Secret Service for many years. Their tradition of excellence and the quality of their protective services and investigations is well known. I know that the Sergeant at Arms of the Senate, William Pickle, proudly served with them for many years.

As the chairman and ranking member of the Judiciary Committee, with jurisdiction regarding United States Secret Service matters, Senator HATCH and I have introduced an amendment to ensure that the Service remains a distinct entity within the Department of Homeland Security. It is important that the Secret Service continue, as they did under the Department of the Treasury, to function as a cohesive unit and not have its functions divided. It is also important that the Secret Service, as they did under the Department of the Treasury, not be merged with other agencies which would dilute the Service's ability to achieve their crucial mission. It is also important to preserve their current chain of command structure.

Our amendment requires that the United States Secret Service be maintained as a ''distinct entity within the Department of Homeland Security'' and that the Secret Service not be merged with any other Department function. Further, our amendment requires that all personnel and operational elements of the Service report at all times to ''the Director of the United States Secret Service'' who shall report directly to the Secretary of Homeland Security without having to report through other officials.

The United States Secret Service is doing an outstanding job in tough times and this amendment will assure that they keep fully devoted to their critical missions in the same excellent manner as they have done in the past.

I hope all Members will join us in including this important amendment in the Department of Homeland Security appropriations bill.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3649

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. LEVIN, Mr. BINGAMAN, and Mr. FEINGOLD, proposes an amendment numbered 3649.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To fulfill Homeland Security promises)

At the appropriate place, insert the following:

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For an additional amount for necessary expenses of the Transportation Security Administration relating to aviation security services pursuant to the amendments made by the Aviation and Transportation Security Act (115 Stat. 597), $70,000,000, to remain available until expended, for activities relating to screening passengers and carry-on baggage for explosives.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for ''Operating Expenses,'' $20,000,000, for non-homeland security missions (as defined in section 888(a) of the Homeland Security Act of 2002 (6 U.S.C. 468(a))).

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for ''Acquisition, Construction, and Improvements,'' $80,000,000, to remain available until September 30, 2009, for the Integrated Deepwater Systems program.

OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS

STATE AND LOCAL PROGRAMS

For additional amounts for ''State and Local Programs,'' $225,000,000: *Provided,* That of the amounts made available under this heading, $100,000,000 shall be available for discretionary grants for use in high-threat, high-density urban areas as determined by the Secretary of Homeland Security, and $125,000,000 shall be for port security grants.

MASS TRANSIT AND RAIL SECURITY

For necessary expenses relating to mass transit, freight and passenger rail security grants, including security grants for the National Railroad Passenger Corporation, a backup communications facility for the Washington Area Metropolitan Transit Authority, security upgrades for various rail tunnels, research and development of rail security methods and technology, capital construction, and operating requirements, $75,000,000.

SEC. ___. PROHIBITION ON ACQUISITION OF PETROLEUM PRODUCTS FOR STRATEGIC PETROLEUM RESERVE.

(a) FUNDING PROHIBITION.—None of the funds made available by this Act or any other Act may be used during fiscal year 2005 to acquire petroleum products for storage in the Strategic Petroleum Reserve.

(b) AMOUNTS OF OIL CURRENTLY UNDER CONTRACT FOR DELIVERY.—The Secretary of the Interior shall sell, in fiscal year 2005, any petroleum products under contract, as of the date of enactment of this Act, for delivery to the Strategic Petroleum Reserve in that fiscal year.

Mr. BYRD. Mr. President, the Senate has before it a $32 billion homeland security appropriations bill. Chairman COCHRAN has put together a fair and balanced bill. Regrettably, the allocation that is available for homeland security programs is simply inadequate. This is not a criticism of Chairman COCHRAN, nor is it a criticism of full committee Chairman TED STEVENS. The fact is that the overall levels in the allocation constrain our ability to address known threats to the safety of the American people.

In response to the threats so often invoked by the President, the Attorney General, the Secretary of Homeland Security, and the FBI Director, one might anticipate that the President would not be satisfied with a bill that cuts funds for first responders, that leaves first responders unable to communicate, that leaves airline passengers worrying about whether a fellow passenger has brought explosives on board, or that fails to adequately invest in securing our ports and trains.

To address these shortcomings, I offered an amendment last week to add $2 billion to the bill. The amendment would have funded authorizations signed by the President; it would have funded 9/11 Commission recommendations; and it would have addressed known vulnerabilities not funded in the committee bill.

The amendment was defeated. The principal argument made against the amendment was that it was not paid for. So today, I offer an amendment that provides $470 million for homeland security, and it is fully paid for.

Last March, during debate on the budget resolution, an amendment was adopted with support on both sides of the aisle. The amendment would have set up a reserve for homeland security programs. The reserve was paid for by directing the Secretary of the Interior to cancel planned deliveries of oil to the Strategic Petroleum Reserve and to instead sell the oil on the open market in order to finance homeland security programs.

As a provision on a budget resolution, that amendment did not have the force of law. Today, I offer an amendment that will make America safer.

The amendment adds funds for first responders that, consistent with the 9/11 Commission recommendation, will be allocated based on threat; for securing mass transit systems; for expediting the modernization of Coast Guard ships, planes and helicopters and improving Coast Guard operations; for purchasing equipment for screening passengers and carry-on baggage for explosives; and for port security.

The amendment addresses vulnerabilities that we all know exist. And, let there be no doubt, if we know that these gaps exist, so do the terrorists.

The amendment includes $125 million for port security grants, bringing the total in the bill to $275 million, the same level assumed in the budget resolution. A 1-month closure of a major port would cost our national economy $60 billion. But because of the tremendous volume of containerized cargo, Customs officials are inspecting only 5 percent of the 9 million containers that come into our ports on vessels each year. With Chairman COCHRAN's support, we have provided additional resources on the floor for Customs and Border Protection inspectors. But, we must do more for securing the ports.

The Coast Guard has estimated that $1.125 billion will be needed in the first year and $5.4 billion will be needed over the next 10 years for the ports to comply with the Federal regulations mandated by the Maritime Transportation Security Act, which was signed into law by President Bush with great fanfare in November 2002. It has been 2 years since the law was signed. If this amendment is adopted and becomes law, Congress will have approved only $770 million for port security, far less than the $1.125 billion Coast Guard estimate for the first year of implementation.

It has been more than 2½ years since Richard Reid, the so-called ''shoe bomber,'' tried to blow up a Miami-bound aircraft over the Atlantic Ocean with explosives he carried onto the aircraft. Last month, two Russian airplanes simultaneously were blown out of the sky, most probably by Chechnyan terrorists who carried the explosives on board the aircraft. The 9/11 Commission Report states clearly and succinctly that the threat posed to passenger aircraft by explosives being carried onto the plane is real.

The additional $70 million in this amendment will significantly expand the effort to screen air travelers for explosives. We know that newly developed passenger portals can detect whether passengers are carrying explosives. These systems have been tested and proven to work. We need the money to physically deploy these systems at our Nation's airports.

Following the March 11 Madrid railroad bombings, the administration issued security bulletins to law enforcement officials and transit authorities warning of the danger of similar attacks here at home. But they requested no funding to help our mass transit agencies hire more guards, train new canine teams, or install additional cameras. Paper directives and press releases will not stop terrorist bombs.

With Chairman COCHRAN's support, we have provided $278 million for mass transit security grants. But that level does not come close to the level authorized by the Senate Banking Committee, on a bipartisan basis, on May 6, 2004. The committee authorizes $5.2 billion for transit security. On May 21, 2004, the Senate Commerce Committee, also on bipartisan basis, approved S. 2273, which authorizes $1.2 billion for additional rail security activities. My amendment would add $75 million for mass transit and Amtrak security.

The 9/11 Commission recommends allocating first responder funds based on threat rather than on population. My amendment adds $100 million to the $875 million currently provided in the Senate bill for urban area security initiative grants. These grants are targeted to cities determined to be at greatest risk of a terrorist attack, that have the highest number of critical assets, such as tunnels, bridges and chemical plants, and that have high population densities. We need to get funds to the places most at risk.

My amendment also includes $100 million for the Coast Guard, including $80 million for the Deepwater Program and $20 million for traditional Coast Guard missions, such as search and rescue and protection of our marine resources. The committee bill funds these activities at levels $575 million below the levels just authorized by the Congress and the President.

Prior to September 11, 2001, the Coast Guard began to modernize its fleet of assets. Since the attacks on 9/11, the Coast Guard's responsibilities have grown substantially. As a result, assets vital to homeland security are being used more today than ever in the Coast Guard's history. The Government Accountability Office recently reported that ''resource usage as measured by the number of hours the Coast Guard's cutters, boats, and aircraft used to perform its missions—was up almost 40 percent from the pre-September 11 baseline.''

The Coast Guard Commandant, in testimony before the Senate Appropriations Subcommittee on Homeland Security, testified that the current condition of the aging fleet threatens Coast Guard mission performance. He testified that Coast Guard assets are in a ''declining readiness spiral.''

Yet, the President has not responded. My amendment will help address the Coast Guard's ''declining readiness spiral.'' The funding would go to accelerate the Coast Guard's highest priorities, which are to enhance safety and reliability on the HH–65 helicopter, to accelerate the design of the fast response cutter for near shore missions, and to complete design of the offshore response cutter for the high endurance missions of the Coast Guard.

The amendment is paid for by suspending the fill of the Strategic Petroleum Reserve. This step makes economic sense. Using Federal dollars to buy high-priced oil for the reserve does not. Oil prices hit an all-time high on August 20, and oil is currently trading at about $44 per barrel. By filling the reserve in this high-priced environment, we are paying more for oil now than we would if we waited until prices went down. This makes no sense for U.S. taxpayers.

Suspending the fill of the reserve in no way threatens our energy security. The reserve is already filled to 96 percent capacity, with 669 million barrels now stored, the highest level that it has ever been. The reserve currently covers 67 days of import capacity.

Buying oil when the market is so high makes no economic sense. It is a bad deal for the taxpayer. Failing to fund critical homeland security measures that the 9/11 Commission has recommended and that address clear vulnerabilities is also a bad deal for the taxpayer. This amendment is a good deal.

I urge Members to support this amendment.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. COCHRAN. Mr. President, I was going to respond to the Senator's comments and his amendment which would add funding to this bill in the amount of $470 million for the Department of Homeland Security.

I don't know at what point we want to consider the fact that, because of the way it is drafted, the impact the amendment would have on future appropriations for fiscal year 2006 would actually, according to the Budget Committee staff and chairman, violate the Budget Act and that a point of order would lie against this amendment.

Reluctantly and with great respect for my friend from West Virginia, I am constrained to make that point of order. Rather than going through all the talking points that my staff has prepared on the subject of the individual amounts to be added by the amendment and the offsets that are identified, which is the Strategic Petroleum Reserve, I am constrained to make a point of order.

Mr. LEVIN. I wonder if the Senator would withhold making the point of

order for a few minutes so I have an opportunity to speak in support.

Mr. COCHRAN. I am happy to reserve that right and yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi yields the floor.

The Senator from Michigan.

Mr. LEVIN. I greatly appreciate my old friend from Mississippi yielding.

We are in an energy crisis. I will speak about that part of the Byrd amendment particularly, which would use the money from not continuing to fill the 96-percent filled Strategic Petroleum Reserve and taking the money that would then be made available and using it for some critical homeland security needs.

I congratulate the Senator from West Virginia for both identifying some very significant needs in the homeland security area, as well as paying for it in a very rational way; that is, to suspend further deliveries into the Strategic Petroleum Reserve.

The energy crisis is obvious. We are paying a record amount per barrel for oil. The addition of these millions of barrels to the Strategic Petroleum Reserve is significantly adding to the cost of oil and is weakening our economy.

Last week, Alan Greenspan stated:

[E]conomic activity hit a soft patch in late spring. . . . That softness in activity no doubt is related, in large measure, to this year's steep increase in energy prices.

Chairman Greenspan further stated:

Most macroeconomic models treat an increase in oil prices as a tax on U.S. residents that saps the purchasing power of households and raises costs for businesses.

Yet in the face of this crisis, the administration is decreasing rather than increasing the supply of oil. Day after day, month after month, regardless of how much American consumers and industry need oil, regardless of how high the cost is of this oil, the administration has been taking millions of barrels of oil off the market and depositing them into the Strategic Petroleum Reserve. And by doing that, the administration is increasing the price of oil and gasoline and decreasing our energy security.

The use to which the $470 million that would be saved by using this oil in the commercial market rather than depositing it into a reserve—which is already 96 percent filled—those uses provide a win-win situation for national security and energy security. For energy security, we would have this energy placed into the private sector, into commercial inventories, rather than into the Petroleum Reserve. For national security, the way in which the Senator from West Virginia would use these funds—for airline security, port security, mass transit and rail security, firefighter grants, State and homeland security grants—these are all very important needs and uses.

Now, very quickly, supplies are tight. That is the reason crude oil prices are high. Demand is strong. Commercial inventories are low. Supplies are vulnerable. Supplies are tight because OPEC is producing barely enough oil to meet demand. Private sector inventories of crude oil are near the lows, historically, for this time of year. Of course, there is also great concern over the vulnerability of Iraqi oil supplies to terrorism—we see that again today—the problems in Russia with Yukos, the largest oil company in that country; and the turmoil in Nigeria and Venezuela, which have added a premium to prices.

Over the last 2 years, private sector inventories have declined significantly. Last January, private sector inventories fell to their lowest levels since the mid-1970s. The SPR Program is a major reason for the decline in private inventories. From April 2002 through December 2003, the Department of Energy deposited about 78 million barrels of oil in SPR. During that same period, private sector inventories declined by about 61 million barrels. Thus, the total amount of oil in inventory in the United States in both private and public storage increased by only 17 million barrels over this entire period.

The SPR Program is directly the reason for recent price increases to the extent of somewhere between 10 cents and 25 cents a gallon when looking at gasoline.

Goldman Sachs, one of the largest and most successful crude oil traders in the world, reported, on January 16 of this year, that ''large speculative positions, builds in strategic petroleum reserves, and low inventory coverage have contributed to current price levels.'' In this report, Goldman Sachs also stated that ''past government storage builds will provide persistent support for the market,'' and that ''current plans for the injection of 130 thousand [barrels a day] of royalty-in-kind barrels into the US Strategic Petroleum Reserve (SPR) between now and the end of September . . . will likely provide even further support.''

Goldman Sachs estimated that the strategic reserve programs in the United States and Europe in 2003 and 2004 are adding about $4.25 to the price of each barrel of crude oil sold in the United States.

Now, DOE's plans, regardless of the price of oil, are to continue to deposit oil into the Petroleum Reserve. Until late 2001, the policy of the Department of Energy was to buy oil for the Strategic Petroleum Reserve when prices were low and to buy less oil when prices were high. That policy was explained by DOE officials, in late 2001, to energy officials in other countries, and the presentation was entitled: ''The Key To A Successful Strategic Reserve Is Cost Control.'' The DOE identifies the ''Lessons Learned to Control Oil Acquisition Costs'' as follows—this was the DOE, before they changed their policy in 2002—1, ''let the markets determine your buying pattern;'' 2, ''buy in weak markets;'' 3, ''delay delivers during strong markets;'' and 4, ''use your acquisition strategy to stabilize markets.''

That was prior to early 2002. They have now reversed it. Instead of buying low and selling high, they are buying high and shorting supply. It makes absolutely no sense to do this. We are all paying more for the price of gasoline and heating oil and jet fuel as a result of this policy. We should stop continuing to deposit oil into the Strategic Petroleum Reserve, which is 96 percent filled. And when we do this in a tight supply, which is now the case, we are adding to gasoline prices alone somewhere between 10 and 25 cents per gallon.

Indeed, ''buy low, sell high'' is just plain common sense. Unfortunately, in early 2002, the Department of Energy abandoned this commonsense approach. Instead, since early 2002, DOE has been buying oil for the SPR without regard to the price of oil. No matter how high the price of oil has been or will be, DOE has been and will be buying more and more oil for the SPR.

Since over this period the price of oil has been very high—often over $30 per barrel—and the oil markets have been tight, this cost-blind approach has increased the costs of the program to the taxpayer and put further pressure on tight oil markets, thereby helping boost oil and gasoline prices to American consumers and businesses.

It is a rip-off of the taxpayers to pay $45 a barrel for oil in today's market, when the same oil could be acquired for $10 to $15 a barrel less in a couple of years.

We need oil in the private sector more than in the SPR. In the current tight market, there is a critical need to prevent minor shortages or disruptions from causing major price spikes. Increasing private inventories, not the SPR, is the best way to meet this need.

Canceling the deposits into the SPR could lower gasoline prices by 10 to 15 cents a gallon. Each $1 increase in the price of oil increases gasoline prices by about 2.5 cents. Depending on which estimates of the effect of the SPR fill is correct, postponing the upcoming SPR deposits therefore could lower gasoline prices by 10 to 25 cents.

Postponing SPR deliveries will signal speculators that the U.S. Government is willing to take action to put a lid on increasing prices. The administration has repeatedly stated that it will keep on filling the SPR regardless of price. The market, therefore, correctly believes DOE will not stop SPR deliveries or release SPR oil no matter how high the price of oil. This has eliminated an important potential brake on speculation that prices will keep rising. In effect, the administration's statements have taken off any lid on prices. Stopping SPR deliveries will signal this is not the case, and could take speculative steam out of the market.

In 2002, DOE SPR staff urged the postponement of deliveries in tight markets. In 2002, when the administration told DOE to change its policy and buy oil for the SPR regardless of the price, the DOE career staff attempted

to persuade the administration to retain the old policy of taking price into consideration.

DOE staff wrote the new policy:

[I]s a business model different from that followed by all private market participants, and if followed by a significant number of market participants would lead to explosive price swings.

In another memo, DOE SPR staff reported the current policy ''appears irrational to the market place.''

In spring 2002, as prices were rising and inventories falling, the DOE SPR staff recommended that DOE postpone filling the SPR:

This is good public policy. Commercial inventories are low, retail prices are high and economic growth is slow. The Government should avoid acquiring oil for the Reserve under these circumstances.

The market conditions today are the same as they were in 2002 when the DOE SPR staff recommended that SPR deliveries be postponed.

Many other oil industry leaders and economists believe now is not the time to fill the SPR.

In May of this year, Bill Greehey, CEO of Valero Energy, the largest independent refiner in the U.S., said:

They tell Saudi Arabia to produce more oil. Then they put it into Strategic Petroleum Reserve. It just doesn't make any sense at all.

Writing in Forbes magazine, Professor Steve Hanke of Johns Hopkins University, commented:

The oil price run-up and scarcity of private inventories can be laid squarely at the White House's door. Since Nov. 13, 2001 private companies have been forced to compete for inventories with the government.

This May, The Houston Chronicle stated:

With oil at more than $40 a barrel and the federal government running a huge deficit, it should take a timeout on filling the stockpile until crude prices come down from record levels. That would relieve pressure on the petroleum market and ameliorate gasoline prices.

A leading energy consulting firm, PFC Energy, wrote this May:

The Bush Administration has actually been helping OPEC to keep spot prices high and avoid commercial stock increases by taking crude out of the market and injecting significant volumes into the SPR.

Mr. President, I ask unanimous consent that a list of other comments be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. The Senate has twice acted on this issue to restore some common sense to our SPR policy. The Senate passed an amendment Senator COLLINS and I offered, by a bipartisan vote of 52 to 43, SPR deliveries and use the receipts from the sale of the royalty oil for homeland security programs. The Senate amendment regrettably was not retained in conference.

Last fall, the Senate unanimously passed an amendment to the Interior Appropriations Bill that Senator COLLINS and I offered that would have required DOE to adopt procedures to acquire oil for the SPR in a manner that minimizes the program's cost to the taxpayers while maximizing our overall energy security. The Senate amendment was not retained in conference, and, unfortunately, DOE has chosen to ignore the Senate's direction in the amendment.

The major reason given by DOE for not postponing any of the scheduled shipments into the SPR is that, according to DOE, the amount of oil that is placed into the SPR is only a small fraction of the global daily supply and demand. This comparison is not relevant in a tight market. The amount that is being put into the SPR is about as much as is produced in several of our own States—Wyoming or Oklahoma, for example. It is about three-quarters of our daily imports from Kuwait. In a tight market, this additional demand can cause a large price increase. Moreover, these daily deposits add up to a lot of oil over weeks and months. The Department of Energy's own documents explain this effect as follows:

Essentially, if the SPR inventory grows, and OPEC does not accommodate that growth by exporting more oil, the increase comes at the expense of commercial inventories. Most analysts agree that oil prices are directly correlated with inventories, and a drop of 20 million barrels over a 6-month period can substantially increase prices.

I support the filling of the SPR, but not at any price. DOE, like any well-managed business, should acquire more oil when prices are low, and less when prices are high. DOE should not be diverting crude oil from depleted private-sector inventories when prices are high and supplies are tight. Deferring further shipments to the SPR at this time will reduce energy prices, lower taxpayer costs, and help strengthen our economy. It will also make about $470 million available for vital homeland security programs.

Clearly, now is not the time to be taking more oil off the market. This amendment is a win-win for consumers, taxpayers, and the Government.

I urge the adoption of the amendment.

Mr. President, I commend the Senator from West Virginia for his amendment, for both parts of it, for both adding money to needed homeland security needs but also finding the source from suspending deposits in the Strategic Petroleum Reserve.

EXHIBIT 1

COMMENTS ON THE SPR PROGRAM

''Commercial petroleum inventories are low, retail product prices are high and economic growth is slow. The Government should avoid acquiring oil for the Reserve under these circumstances. . . . Essentially, if the SPR inventory grows, and OPEC does not accommodate that growth by exporting more oil, the increase comes at the expense of commercial inventories. Most analysts agree that oil prices are directly correlated with inventories, and a drop of 20 million barrels over a 6-month period can substantially increase prices.'' John Shages, Director, Office of Finance and Policy, Strategic Petroleum Reserves, U.S. Department of Energy, Spring 2002.

''As a U.S. Senate committee pointed out Wednesday, the U.S. government was filling the Strategic Petroleum Reserve last year as prices were rising. And by my estimate, had the U.S. government not filled the Strategic Petroleum Reserve or returned the 20 million barrels they'd put in back to the market, prices right now would be around $28 a barrel instead of $38 a barrel and gasoline prices might be 25 to 35 cents lower.'' Philip Verleger, NPR Morning Edition, March 7, 2003.

''We believe the administration has been making a mistake by refilling the reserve to the tune of about 11 million barrels since the start of May. . . . Washington should back off until oil prices fall somewhat. Doing otherwise is costing the Treasury unnecessarily and is punishing motorists during summer vacation driving time.'' Omaha World Herald, August 14, 2003.

''They've continued filling the reserve—which is crazy, putting the oil under ground when it's needed in refineries.'' Dr. Leo Drollas, Chief Economist, Centre for Global Energy Studies, The Observer, August 24, 2003.

''If that was going into inventory, instead of the reserve, you would not be having $29 oil, you'd be having $25 oil. So, I think they've completely mismanaged the strategic reserve.'' Bill Greehey, CEO of Valero Energy, largest independent refiner in the U.S., Octane Week, September 29, 2003.

''Over the last year, the [DOE] has added its name to this rogues list of traders by continuing to acquire oil for the nation's Strategic Petroleum Reserve (SPR). In doing so, it has (1) wasted taxpayer money, (2) done its part to raise crude oil prices, (3) made oil prices more volatile, and (4) caused financial hardship for refiners and oil consumers.'' Philip K. Verleger, Jr., The Petroleum Economics Monthly, December 2003.

''U.S. taxpayers and the economy would realize greater economic potential with a more prudent management of this national asset by not further filing the SPR under the current market structure. The DOE should wait for more favorable prices before filing the reserve both today and in the future.'' Richard Anderson, CEO, Northwest Airlines, NWA WorldTraveler, January 2004.

''The government is out buying fuel, it appears, without much regard for the impact that it is having on prices.'' James May, Chief Executive, Air Transport Association, quoted in U.S. Airlines Blame Bush for Cost of Oil, Associated Press, January 2004.

''Government storage builds have lowered commercially available petroleum supplies'' and ''will provide persistent support to the markets.'' ''Changes in global government storage injections will have [a] big impact on crude oil prices.'' Goldman Sachs, Energy Commodities Weekly, January 16, 2004.

''The average price per barrel for 2003 was the highest in 20 years and to date, the price for 2004 is even higher. All the while, our government continues to depress inventory stocks by buying oil at these historic highs and then pouring it back into the ground to fill the strategic petroleum reserve.'' Larry Kellner, President and Chief Operating Officer, Continental Airlines, Continental Airlines Earnings Conference Call, January 20, 2004.

''The act of building up strategic stocks diverts crude supplies that would otherwise have entered the open market. The natural time to do this is when supplies are ample, commercial stocks are adequate and prices low. Yet the Bush Administration, contrary to this logic, is forging ahead with plans to add [more oil to] the stockpile.'' Petroleum Argus, January 26, 2004.

[Bill O'Grady, Director of Futures Research at A.G. Edwards, Inc.] also notes the Bush administration has been on an oil-buying binge to stock the nation's strategic petroleum reserves. He guesses that artificial demand boost is adding as much as 15 cents to the cost of a gallon of gas.'' Las Vegas Review-Journal, February 29, 2004. [West Coast gasoline about $2/gallon at the time].

''When the government becomes a major purchaser of oil, it only bids up the price exactly when we need relief. I know that you recently testified to Congress that the SPR fill has a negligible impact on the price of crude oil, but we politely disagree.'' Letter from American Trucking Association to Secretary of Energy Spencer Abraham, March 9, 2004.

''Normally, in Wall Street parlance, you're supposed to buy low and sell high, but in Strategic Petroleum Reserve actions, we're buying higher and higher and that has really helped keep oil prices high.'' Larry Kudlow, Kudlow & Cramer, CNBC, March 22, 2004.

''Filling the SPR, without regard to crude oil prices and the availability of supplies, drives oil prices higher and ultimately hurts consumers.'' Letter from 53 Members of the House of Representatives (39 Republicans, 14 Democrats) to President Bush, March 22, 2004.

''Despite the high prices, American officials continue to buy oil on the open market to fill their country's strategic petroleum reserves. Why buy, you might ask, when prices are high, and thereby keep them up? The Senate has asked that question as well. It passed a non-binding resolution this month calling on the Bush administration to stop SPR purchases; but Spencer Abraham, the energy secretary, has refused.'' The Economist, March 27, 2004.

''[T]he Energy Department plans to buy another 202,000 barrels a day in April. It can't resist a bad bargain.'' Alan Reynolds, Senior Fellow, CATO Institute, Investor's Business Daily, April 2, 2004.

''In my opinion, we have grossly mismanaged the SPR in the last 12 months. When Venezuela went on strike and we had the war in Iraq we probably should have drawn down some of the Reserve in order to build up supplies in the Gulf Coast of the U.S. We didn't do that. When the war was over we started adding to the Reserve, so we were actually taking oil out of the Market. We took something like 40–45 million barrels that would have gone into our inventories—we put in the strategic reserves. . . . We should have stopped filling the Reserves 6 months ago.'' Sarah Emerson, Managing Director, Energy Security Analysis, Inc., Interview, New England Cable News, April 4, 2004, 8:59 p.m.

''The administration continues to have its hands tied on the Strategic Petroleum Reserve, particularly with candidate Kerry's 'high ground' proposal to suspend purchases putting Bush in a 'me too' position.'' Deutsche Bank, Global Energy Wire, ''Election-Year Oil: Bush Painted into a Corner,'' April 6, 2004.

''At a time when supplies are tight and prospects for improvement are grim, Bush continues to authorize the purchase of oil on the open market for the country's Strategic Petroleum Reserve. Bush is buying serious quantities of oil in a high-price market, helping to keep it that way.'' Thomas Oliphant, Blatant Bush Tilt Toward Big Oil, Boston Globe, April 6, 2004.

''He pointed out that Senator Carl Levin, D–Mich. had a good idea earlier this month in proposing earlier this month cutting back the contribution level to the Strategic Petroleum Reserve, which Kerr said is 93 percent full. 'By reducing the input, it could provide a great deal more supply to help rein in prices a bit.' '' CBS MarketWatch, Gasoline, crude prices pull back, April 23, 2004, referring to the views of and quoting Kevin Kerr, editor of Kwest Market Edge.

''The Bush Administration has actually been helping OPEC to keep spot prices high and avoid commercial stock increases by taking crude out of the market and injecting significant volumes into the SPR.'' Crude Or Gasoline? Who Is To Blame For High Oil Prices: OPEC Or The US? Market Fundamentals & Structural Problems, PFC Energy, May 6, 2004.

''Kilduff said the Bush administration could have stopped filling the SPR, saying 'it's not the best move to start filling the SPR when commercial inventories were at 30-year lows.' '' John Kilduff, senior analyst, Fimat, in Perception vs. reality, CBS MarketWatch, May 17, 2004.

''Oppenheimer's [Fadel] Gheit said Bush's decision to fill the nation's Strategic Petroleum Reserve in the wake of the Sept. 11 attacks caused a crisis of confidence around the world that led to the perception of short supply and drove up prices. 'The administration has not tried hard to dispel notions and rumors and perceptions and concerns over supply disruption,' [said Gheit]. 'Gasoline prices are at record levels because of mismanagement on a grand scale by the administration.' '' Fadel Gheit, oil and gas analyst at Oppenheimer & Co., in Perception vs. reality, Camps debate Bush influence on Big Oil, CBS MarketWatch, May 17, 2004.

''With oil at more than $40 a barrel and the federal government running a huge deficit, it should take a timeout on filling the stockpile until crude prices come down from record levels. That would relieve pressure on the petroleum market and ameliorate gasoline prices.'' Houston Chronicle, Keep the oil in it, but take a timeout on filling it, May 18, 2004.

''They tell Saudi Arabia to produce more oil. Then they put it into the Strategic Petroleum Reserve. It just doesn't make any sense at all.'' Bill Greehey, CEO of Valero Energy, Washington Post, May 18, 2004.

''The Bush administration contributed to the oil price squeeze in several ways, according to industry experts. First, it failed to address the fact that demand for gasoline in the United States was increasing sharply, thanks to ever more gas guzzlers on the road and longer commutes. The administration also continued pumping 120,000 barrels a day of crude into the Strategic Petroleum Reserve, making a tight market even tighter.'' David Ignatius, Homemade Oil Crisis, Washington Post, May 25, 2004.

''How can the administration rectify its mistakes? It could calm the market by moving away from its emergency-only stance. It could also stop buying oil to add to the strategic reserve. The government has done a good job making sure that the reserve is at its 700-million barrel capacity. But now that we are close to that goal there is no reason to keep buying oil at exorbitant prices.'' Edward L. Morse and Nawaf Obaid, The $40-a-Barrel Mistake, New York Times, May 25, 2004.

''President Bush's decision to fill the reserve after the terror attacks of September 2001 has been one of the factors driving up oil prices in recent months, along with reports that China, which recently surpassed Japan as the second-largest importer of oil, is going ahead with plans to build its own petroleum reserve.'' Simon Romero, If Oil Supplies Were Disrupted, Then . . . New York Times, May 28, 2004.

''The oil price run-up and scarcity of private inventories can be laid squarely at the White House's door. Since Nov. 13, 2001 private companies have been forced to compete for inventories with the government.'' Steve Hanke, Oil and Politics, Forbes, August 16, 2004.

The PRESIDING OFFICER (Mr. TALENT). Who seeks recognition?

The Democratic leader is recognized.

AMENDMENT NO. 3636

Mr. DASCHLE. Mr. President, I know we have set aside the Baucus-Burns-Brownback et al. amendment. I just want to come to the floor to express my support for the amendment as well. This is a bipartisan effort. It is long overdue. As others have noted, the need is great. There are disasters around the country that have to be addressed, including some in South Dakota. It is not just the severity of the drought, but it is the length of time that drought has existed in some parts of our country, especially in South Dakota.

So I am very hopeful the Senate will express itself on a unanimous basis and provide the kind of support that our farmers and ranchers and others need. I hope the amendment will be adopted.

I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

Who seeks recognition?

The Senator from New Mexico is recognized.

AMENDMENT NO. 3649

Mr. BINGAMAN. Mr. President, I just want to speak briefly in support of Senator BYRD's amendment as well.

This amendment will make available to the market an additional 19 million barrels of oil that the Federal Government will receive in fiscal year 2005 as in-kind royalties. Without this amendment, the Federal Government would hold this oil off the market by putting it in the Strategic Petroleum Reserve in 2005. Because this Federal royalty oil would be sold, under this amendment it would generate an offset of $470 million, which the amendment then proposes to use for important homeland security measures, such as port security grants, aviation passenger screening, the Coast Guard, mass transit grants, and the SAFER Program.

It is important to note that the amendment will not take out of the Strategic Petroleum Reserve any oil that is now in the Reserve.

It is merely suspending further filling of the reserve. Suspending the fill of the Strategic Petroleum Reserve during times of high oil prices makes economic sense. Using Federal dollars to buy high-priced oil for the Strategic Petroleum Reserve does not make economic sense.

Oil prices hit an all-time high on the NYMEX on August 20, trading at $49.40 a barrel. Today oil is trading at close to $45 a barrel, which represents a price increase of more than 30 percent since the beginning of the year. By filling the Strategic Petroleum Reserve in this very high-priced environment, we are paying more for oil now than we would if we waited until prices went down.

Filling the Strategic Petroleum Reserve when oil prices are high costs

American taxpayers unnecessarily. It also puts more pressure on already tight fuel markets and keeps oil prices higher for longer.

The royalty-in-kind oil program used to fill the Strategic Petroleum Reserve was first envisioned in a low-price environment. The Government bought oil from domestic producers on Federal lands when prices were low in order to absorb some of the excess oil. The royalty-in-kind program was used to keep domestic oil prices from falling even further, but we were then talking about below $14 per barrel, not below the $45 per barrel which is currently prevailing. The royalty-in-kind program was not established to help high oil prices remain high, but buying in a high-priced environment has that exact effect.

Suspending the fill of the Strategic Petroleum Reserve does not pose an immediate security threat, as the Senator from Michigan pointed out. The reserve is already 96 percent of capacity, with 669 million barrels now stored. That is the highest level of storage we have ever had in the Strategic Petroleum Reserve. It currently covers 67 days of import capacity at a level of 10 million barrels per day of imports. Using scarce Federal dollars to fill the Strategic Petroleum Reserve while failing to fund necessary homeland security measures presents a security threat itself.

Some of you may recall—I think we all recall—that the Senate passed a similar amendment to this to the budget resolution that was considered earlier this year, the Levin-Collins amendment.

I urge support of Senator BYRD's amendment this evening. It will put our limited homeland security dollars to work in the most beneficial way for Americans.

I yield the floor.

AMENDMENT NO. 3636

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we are at a point now where I think we can proceed to dispose of an earlier amendment that was offered. If there is no objection to setting aside the pending Byrd amendment for that purpose, I ask unanimous consent that the Byrd amendment be set aside and that we proceed to a voice vote on the Baucus amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The question is on agreeing to the Baucus amendment No. 3636.

The amendment (No. 3636) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3649

Mr. COCHRAN. Mr. President, the Byrd amendment has been presented and discussed by the Senator from West Virginia, the Senator from Michigan, and the Senator from New Mexico. Compelling arguments have been made for the additional funds that would be made available to the Department of Homeland Security under this amendment. The difficulty, however, is that the amendment would provide appropriations that are not consistent with the Budget Act. Section 501 of H. Con. Res. 95, the fiscal year 2004 concurrent resolution on the budget, limits the amount and type of advance appropriations which may be provided for fiscal years 2005 and 2006. The pending amendment would provide advance appropriations for fiscal year 2006 which are not on the list of programs, projects, activities, or accounts identified in the joint explanatory statement of managers accompanying the budget resolution.

Thus, I raise a point of order pursuant to section 501(b) of H. Con. Res. 95, the 108th Congress, against the pending amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. I ask unanimous consent to set aside the pending amendment to permit the Senator from New York to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized.

AMENDMENT NO. 3651

Mrs. CLINTON. Mr. President, I call up amendment No. 3651.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON], for herself and Mr. SCHUMER, proposes an amendment numbered 3651.

Mrs. CLINTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3651) is as follows:

(Purpose: To require the Federal Emergency Management Agency to allocate at least $4,450,000 of any funds previously made available in response to the September 11, 2001, attacks in New York City for continued mental health counseling services for emergency services personnel requiring additional assistance as a result of the September 11, 2001, terrorist attacks)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. (a) Of any funds previously made available to the Federal Emergency Management Agency in response to the September 11, 2001, attacks in New York City, not less than $4,450,000 shall be provided, subject to the request of the Governor of New York, to those mental health counseling service entities that have historically provided mental health counseling through Project Liberty to personnel of the New York City Police Department, the New York City Fire Department, and other emergency services agencies, to continue such counseling.

Mrs. CLINTON. Mr. President, I thank the chairman of the subcommittee, the Senator from Mississippi, and his excellent staff for their assistance in working out this amendment.

This is an amendment that would continue to provide funding for the mental health counseling that the fire department and police department and other first responders have been receiving because of their experiences arising out of September 11. We are finding that only now are some of the firefighters, police officers, and others coming forward and expressing their need for some kind of intervention and assistance.

This is a program that has worked very well. I am grateful for the Federal assistance to start this program, and we are hopeful that this amendment will enable FEMA, which already has money set aside arising out of already appropriated money for New York and for purposes like this, to obtain the requisite support they need to go forward with this mental health counseling. So I am very grateful that we have worked this out.

There is no new money in it, there is no new earmarking or appropriations; it is merely giving FEMA the go-ahead, with the appropriate authorization, to continue the mental health program that has proven so successful.

So, again, I appreciate greatly the chairman and his staff's assistance. I ask for a voice vote on this amendment, if appropriate at this time.

Mr. COCHRAN. Mr. President, we are happy this has been resolved. I think it improves the bill. We are ready to accept the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3651) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

Mr. COCHRAN. Regular order.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 48, nays 47, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—48

Allen	Dorgan	Lieberman
Baucus	Durbin	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Graham (FL)	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Carper	Inouye	Reed
Clinton	Jeffords	Reid
Coleman	Johnson	Rockefeller
Collins	Kennedy	Sarbanes
Conrad	Kohl	Schumer
Corzine	Landrieu	Snowe
Daschle	Lautenberg	Specter
Dayton	Leahy	Stabenow
Dodd	Levin	Wyden

NAYS—47

Alexander	Dole	McCain
Allard	Domenici	McConnell
Bayh	Ensign	Miller
Bennett	Enzi	Murkowski
Bond	Fitzgerald	Nickles
Brownback	Frist	Roberts
Bunning	Graham (SC)	Santorum
Burns	Grassley	Shelby
Cantwell	Gregg	Smith
Chafee	Hagel	Stevens
Chambliss	Hatch	Sununu
Cochran	Hutchison	Talent
Cornyn	Inhofe	Thomas
Craig	Kyl	Voinovich
Crapo	Lott	Warner
DeWine	Lugar	

NOT VOTING—5

Akaka	Edwards	Sessions
Campbell	Kerry	

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, we are at a point now where we can proceed with two or three other amendments that may require votes and then we expect to have a vote on final passage. We would like to get an agreement that these are the amendments which will be voted on and that we will have votes in sequence on those amendments and final passage of the bill. I hope my friend from Nevada will consider that.

The Senator from Florida wants to be heard.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3652

Mr. NELSON of Florida. Mr. President, I send amendment 3652 to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself and Mr. GRAHAM of Florida, proposes an amendment numbered 3652.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide supplemental disaster relief assistance for agricultural losses in the State of Florida resulting from Hurricanes Charley and Frances)

At the appropriate place, insert the following:

TITLE ___—EMERGENCY AGRICULTURAL DISASTER ASSISTANCE

SEC. ___. CROP LOSSES.

In addition to amounts otherwise made available under this Act, there is appropriated $560,000,000, to remain available until expended, for the Commodity Credit Corporation Fund for crop losses in excess of 25 percent of the expected production of a crop (including nursery stock, citrus, dairy, timber, vegetables, tropical fruit, clams and other shellfish, tropical fish, poultry, sugar, hay, equines, wildflower seed, sod, and honeybees and losses sustained by packing houses) in the State of Florida resulting from Hurricane Charley or Frances: *Provided,* That any producer of crops and livestock in the State of Florida that has suffered at least 25 percent loss to a crop covered by this section, 25 percent loss to livestock, and damage to building structure in 2004, resulting from Hurricane Charley or Frances, shall be eligible for emergency crop loss assistance, emergency livestock feed assistance under the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471 et seq.), and loans and loan guarantees under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

SEC. ___. WATERSHED AND FLOOD PREVENTION OPERATIONS.

In addition to amounts otherwise made available under this Act, there is appropriated $30,000,000, to remain available until expended, for the emergency watershed protection program established under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) and related watershed and flood prevention operations, an additional amount to repair damage to the waterways and watersheds in the State of Florida resulting from Hurricane Charley or Frances.

SEC. ___. EMERGENCY CONSERVATION PROGRAM.

In addition to amounts otherwise made available under this Act, there is appropriated $60,000,000, to remain available until expended, for the emergency conservation program established under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.), an additional amount to repair damage to farmland (including nurseries and structures) in the State of Florida resulting from Hurricane Charley or Frances.

SEC. ___. AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT.

In addition to amounts otherwise made available under this Act, there is appropriated $25,000,000, to remain available until expended, for the Agricultural Credit Insurance Fund program account for the cost of emergency insured loans for costs in the State of Florida resulting from Hurricane Charley or Frances.

SEC. ___. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

In addition to amounts otherwise made available under this Act, there is appropriated $10,000,000, to remain available until expended, for emergency grants to assist low-income migrant and seasonal farmworkers under section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a): *Provided,* That the emergency services to be provided may include such types of assistance as the Secretary of Agriculture determines to be necessary and appropriate (including repair of existing farmworker housing and construction of new farmworker housing units, including housing that may be used by H-2A workers) to replace housing damaged as a result of Hurricane Charley or Frances.

SEC. ___. RURAL HOUSING FOR DOMESTIC FARM LABOR.

In addition to amounts otherwise made available under this Act, there is appropriated $10,000,000, to remain available until expended, for rural housing for domestic farm labor for the cost of repair and replacement of uninsured losses resulting from natural disasters such as Hurricanes Charley and Frances.

SEC. ___. STATE AND PRIVATE FORESTRY.

In addition to amounts otherwise made available under this Act, there is appropriated $5,000,000, to remain available until expended, of which $2,500,000 shall be made available for urban and community forestry and of which $2,500,000 shall be made available for wildland-urban interface fire suppression efforts resulting from fuel loading from damaged or destroyed tree stands in the State of Florida resulting from Hurricane Charley or Frances.

SEC. ___. EMERGENCY DESIGNATION.

The amounts appropriated in this title are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1014).

Mr. NELSON of Florida. Mr. President, we have had two major hurricanes in Florida that have done a great

deal of damage to our agricultural industry in Florida. Our agricultural industry is a $62 billion industry. We have just passed a disaster relief bill for drought for several Midwestern States which was a $3 billion disaster relief bill.

Naturally, where we have an existing disaster that has occurred over the course of the last 6 weeks, we have a lot of farmers hurting, and the well has run dry in the Department of Agriculture funds. Naturally, the Federal Government will respond, which we do in times of disaster, and this Senator and Senator GRAHAM want to make sure we have the funds.

We have bipartisan unanimity in our House delegation, along with Senator GRAHAM and me, on what we are requesting in this particular amendment I have sent to the desk. This is requesting $700 million of disaster relief for agricultural disaster. The figure may be more.

The distinguished chairman of the Appropriations Committee and I will enter into a colloquy in which I can be assured this matter is going to be addressed in this bill when it goes to conference and that the funds are going to be needed.

I engage in a colloquy with the chairman of the Appropriations Committee.

We are told the administration has existing funds to address the massive damage done to Florida agriculture by Hurricanes Charley and Frances, and, indeed, Secretary Veneman has authorized $300 million in section 32 funds which are certainly welcome and appreciated. However, I can state that back in Florida we are also told that already the U.S. Department of Agriculture is running out of relief funds. I ask the distinguished chairman of the Appropriations Committee if he will work with me to ensure additional emergency appropriations for USDA disaster relief can be provided to address this crisis in Florida?

I yield to the Senator.

Mr. STEVENS. We will provide the needed disaster relief for Florida agriculture as soon as possible. This relief will come in the form of appropriations for the U.S. Department of Agriculture disaster relief programs. These funds will be used to help Florida citrus farmers as well as other Florida farmers. If the funds are not provided before we address Hurricane Ivan, we will address this issue when we do address Ivan in the conference on this bill, the Homeland Security bill.

Mr. NELSON of Florida. Mr. President, I thank the chairman of the Appropriations Committee, and I appreciate his cooperation.

I ask the chairman, with his commitment in the Senate, am I in a position to guarantee the agricultural industry of my State that we will provide additional USDA disaster relief or other disaster funds to meet this need in supplemental appropriations in the conference report on this bill, the Homeland Security appropriations bill?

Mr. STEVENS. Mr. President, yes, that is my commitment to the Senator from Florida. We fully intend to take up the Hurricane Ivan funds as an amendment to this bill in conference when the supplemental request is received.

Mr. NELSON of Florida. Mr. President, around this place, a man's word is his bond, and that is good enough for me.

I thank the Senator. Our people are hurting. The President has requested, in addition, a $3.1 billion relief package for FEMA and other agencies of Government other than the agriculture relief. He did not request that. That is the reason for bringing this to a head at this late hour.

AMENDMENT NO. 3652 WITHDRAWN

Therefore, I withdraw my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mr. GRAHAM of Florida. Mr. President, I commend Senator NELSON on this issue and thank Senator STEVENS for his efforts.

This amendment represents the first step in correcting an injustice. That injustice is the lack of meaningful disaster relief for the farmers, ranchers, and growers of Florida.

Agriculture is the second largest generator of income in Florida. It is responsible for $7 billion in cash receipts and accounts for a total of $60 billion in total economic impact.

Mr. President, 44,000 farmers and growers produce 280 different crops ranging from tropical fruits to winter vegetables to greenhouse and nursery products to aquaculture and honey and more.

The twin disasters of Charley and Frances devastated a significant portion of this economic sector. Preliminary estimates indicate more than $2 billion in damage to Florida agriculture.

Some growers were hit twice; before they could determine their initial losses, they lost the rest of their crops. It may take months to determine the final cost of these storms. The ground first must dry out before growers can learn if they will be able to plant and harvest a crop this year.

The growers and their families need help now. Yet today's request from the administration contains no aid for them.

Between fiscal year 1989 and fiscal year 2003, Congress added $49.2 billion to USDA programs. Of that amount, $21.4 billion went for market loss payments to compensate for low prices, and $17.9 billion went to crop disaster payments to producers who suffered a natural disaster crop loss.

In the past, the Senate has responded when our farmers and ranchers were in need. We again must respond in an appropriate way by providing the aid that is contained in this amendment.

I want to commend those officials who have been trying to help Florida agriculture since Hurricane Charley first hit the State. Dedicated public servants from the U.S. Department of Agriculture and the Florida Department of Agriculture and Consumer Services have been assessing the damage and directing farmers to available assistance programs. The private sector has worked long hours to minimize the damage. Producers who may have suffered only minor losses are helping their neighbors who are not as fortunate.

The U.S. Department of Agriculture as always is using its resources to aid the victims of these disasters. Additional funds are necessary to begin recovery operations. Yet, those funds were not included in the administration's recent request.

I want to explain why these funds are necessary. Some natural disasters destroy crops. These hurricanes have destroyed more than crops. For example, nurseries and greenhouses collapsed or were crushed by the storms. Replacing a structure is more difficult and costly than just replacing plants.

Consider the citrus industry. In some groves, you can walk from end to end and never touch the ground because it is covered with fallen grapefruits. Next year, another crop may grow, but the grove's owners, and their families, need help today. Even worse, the storms destroyed thousands of citrus trees. It takes 5 years for a new tree to produce fruit and seven years for it to turn a profit.

We are approaching that time of year when people throughout the country order and send gifts of Florida citrus. Its been estimated that packing houses and related businesses could lose as much as $100 million from the storms. Consider the impact on the workers in these facilities.

Preliminary estimates indicate that the sod industry in Florida has suffered $300 million in losses. Many of the sod farms are flooded, and too much water is not good for sod.

Florida's cattle and calving operations generate more than $370 million in cash receipts. The storms destroyed fences and dumped debris on grazing lands. Florida calves are fed and grow at feedlots in other parts of the country.

Consider the plight of the winter vegetable growers. Many in Florida began preliminary planting before the hurricanes hit. Existing programs do not cover their pre-planting costs. They must plant by a certain date to be eligible for aid. If the ground is too wet and they can't plant in time, they suffer twice—the lack of a cash crop and the lack of disaster aid.

The amendment does not ignore the human side of agriculture. It includes funds to assist groups that provide emergency services to the many people who work on farms where crops have been destroyed. Many farm workers have lost their jobs. They also have seen their homes destroyed, or they find themselves without water or power.

I realize that the preliminary estimates of $2 billion in losses will be reduced, once insurance and other payments are taken into account. But the need exists today.

The transmittal letter for the emergency supplemental asked Congress ''to limit this emergency request to those items directly related to the recovery efforts from the impact of these recent major disasters.'' This amendment meets this requirement.

After a more detailed examination of the damage, we may have a need for additional funds for agriculture assistance. That is why I consider this amendment to be just an important first step but not the final step toward the goal of helping the farmers, ranchers, and producers of Florida.

AMENDMENT NO. 3656

Mr. SCHUMER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. SARBANES, Mr. REED, Mrs. CLINTON, and Mr. KENNEDY, proposes an amendment numbered 3656.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase funding for rail and transit security grants)

On page 20, line 7, strike ''$1,200,000,000'' and insert ''1,550,000,000''.

On page 20, line 13, strike ''$150,000,000'' and insert ''$500,000,000''.

Mr. SCHUMER. Mr. President, I will be brief. I know the hour is late, but as I am sure this body knows, these issues, I believe, are extremely important and have to be considered. This amendment deals with rail security. It is rail security and transit grants.

Now, first, I do want to say that we are providing $278 million for these grants. The amendment by my friend from West Virginia raised the amount to that. But it is not close to enough when we are considering that rail is one of the great dangers we face in this war on terrorism. If anything, we have learned since last year's appropriations bill that al-Qaida has chosen rail as one of its methods of terror. We all looked in shock at what happened in Madrid.

Our rail systems, whether they be mass transit, subways, commuter rails, passenger rails, freight rails, are utterly unprotected. While we are making small steps in the direction of protecting them, we are not moving close to quickly enough. Despite the significant threat to transit systems, the funding for transit security has been grossly inadequate.

Over the last 2 years, Congress appropriated only $115 million in transit security: $65 million in fiscal year 2003; $50 million—less—in 2004. The administration's budget requested no additional funding. Now, of course, we have raised it a little bit here but not close to enough.

Furthermore, only 30 to 40 percent of what has been appropriated for transit security has been received by transit agencies. So even with the small amounts we have appropriated, our agencies that are supposed to make our subways, our mass transit, our commuter rail, our passenger rail safer have not been able to do it. As a result, many transit agencies, including those in my city, in my State, many of which are likely to be at risk, have pressing security needs that are still unfunded. In fact, the Banking Committee found that we have invested $9.16 per passenger on aviation improvements but less than 1 cent per passenger on transit security improvements. Now does that make any sense: $9.16 on air travel, less than 1 cent on transit?

On April 8, the Commerce Committee passed the Rail Security Act of 2004. The bill would provide $1.2 billion to enhance the safety of our Nation's mass rail systems. On May 6, the Banking Committee unanimously passed the Public Transportation Terrorism Prevention Act of 2004. That bill would provide over $5 billion to enhance the safety of the Nation's mass transit systems and would mean so much to the New York area where we face a need for hundreds of millions of dollars to shore up our security. So when my friend from Mississippi will get up and say, well, we are giving some money, it is not close to what the authorizing committees felt was needed. It is not a little less; it is not a lot less; it is a huge amount less. If the Commerce Committee would say that $1.2 billion is needed and the Banking Committee would say that $5 billion is needed and we are appropriating as little as we are, clearly we are not doing something right.

These two bills were not taken up by the Senate leadership for several months, and then, in July, Secretary Ridge announced there was credible information indicating al-Qaida is moving ahead with plans for a large-scale attack in the U.S. aimed at disrupting the political elections. In reaction, all of a sudden the Senate leadership decided to try to pass some security measures that were long overdue. I am told the reason they did not bring them up is because they felt these measures cost too much. I am sure my esteemed colleague from Mississippi will make that argument again today, that spending $350 million to secure the thousands of miles of tracks, tunnels, bridges, and stations used by millions of Americans every day is too expensive. I have to respectfully disagree. We are vulnerable. God forbid 10 terrorists strap explosives to themselves and go into 10 of our busiest rail stations and detonate them at a single time. This would cause huge loss of life, tremendous suffering, and economic hardship.

There are things we can do. We can develop detectors that fit mass transit as we are doing in the airports. We are not. We can protect our tunnels and bridges upon which trains go. We are not. The bottom line is, we are doing virtually nothing.

Mr. REID. Mr. President, could I ask my friend to withhold? We have a unanimous consent request that Members have been waiting on for a while.

Mr. SCHUMER. I am happy to yield.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we are at a point where we can advise Senators of amendments that will now be presented to the Senate for votes. We hope we can get this unanimous consent agreement adopted so we will have an orderly process to follow.

I ask unanimous consent that other than any amendments cleared by both managers, the only remaining amendments be the following and that there be no second degrees in order to the listed amendments prior to votes in relation to those amendments: the pending Kennedy amendment for 5 minutes equally divided; the Schumer amendment on rail safety with 10 minutes equally divided; the Schumer amendment on immigration with 10 minutes equally divided; and the Clinton amendment, No. 3631, with 10 minutes equally divided—and I am sure the Senator from Florida will call up his amendment on funds for the Red Cross, and we will adopt that on a voice vote—further, that any other pending amendments be withdrawn, and following disposition of the above-listed amendments, the bill be read a third time and the Senate proceed to passage as under the order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. COCHRAN. I thank all Senators.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I appreciate the understanding of my colleague from Mississippi. I think I have used pretty much my time on transit even though I have been given another 10 minutes.

I just want to say this in conclusion: We are currently spending $5 billion a month in Iraq alone. While I wholeheartedly support making sure that our troops have everything they need—and I have supported all of these funding requests—if we can spend $5 billion a month in Iraq, we can surely spend $350 million over 5 years to help ensure the safety of our transit riders here at home. The priorities are wrong. There is a disconnect. We spend what it takes to win a war on terror overseas, as we should. We spend virtually nothing to protect ourselves at home. To say that a couple hundred million dollars is too much when the safety of our citizens is at stake and we are spending $5 billion a month in Iraq is a schizophrenia that this country, as we fight this war on terror in this brave, new world, cannot afford.

I urge adoption of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, this amendment would add $350 million to the bill for rail and security transit grants. A previously adopted amendment has already added $128 million to the bill for this purpose.

The amendment will cause the bill to exceed the committee's 302(b) allocation; therefore, I make a point of order under section 302(f) of the Congressional Budget Act that the amendment provides spending in excess of the subcommittee's 302(b) allocation.

Mr. SCHUMER. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purpose of the pending amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Mr. President, has all time expired?

The PRESIDING OFFICER. All time has expired.

Mr. COCHRAN. Mr. President, I ask unanimous consent that these votes be stacked that are in order: the two Schumer amendments, the Clinton amendment, the vote on final passage, and any vote in relation to the Kennedy amendment as well—that they be stacked so we can then proceed with debate on the second Schumer amendment or the Clinton amendment and dispose of the discussion, and then we will have a vote on all of those issues at the same time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New York.

AMENDMENT NO. 3655

Mr. SCHUMER. Mr. President, I offer the Schumer amendment on immigration security. The amendment is at the desk, I believe.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 3655.

Mr. SCHUMER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate an additional $350,000,000 to improve the security at points of entry into the United States)

On page 7, line 16, strike ''$2,413,438,000,'' and insert the following: ''$2,763,438,000, of which $200,000,000 shall be reserved for the International Civil Aviation Organization to establish biometric and document identification standards to measure multiple immutable physical characteristics, including fingerprints, eye retinas, and eye-to-eye width and for the Department of Homeland Security to place multiple biometric identifiers at each point of entry; of which $50,000,000 shall be reserved for a program that requires the government of each country participating in the visa waiver program to certify that such country will comply with the biometric standards established by the International Civil Aviation Organization; of which $25,000,000 shall be reserved for the entry and exit data systems of the Department of Homeland Security to accommodate traffic flow increases; of which $50,000,000 shall be reserved to integrate the entry and exit data collection and analysis systems of the Department of Homeland Security, the Department of State, and the Department of Justice, including the Federal Bureau of Investigation; of which $25,000,000 shall be reserved to establish a uniform translation and transliteration service for all ports of entry to identify the names of individuals entering and exiting the United States;''.

Mr. SCHUMER. Mr. President, there are so many places where we have to tighten up our security at home. We have talked about security in the air and security at the ports and security on the rails and security with trucks. We have talked about helping our police and our firefighters and hospitals. There is another area that we do have to address even at this late hour because it is so crucial. That is security at our country's borders.

The question is, Who can come across our borders, whether by land or sea or by air, and how do we monitor who they are, and how do we make sure terrorists do not come into this country as they did in the years and months before 9/11, where one part of the Government knew that those who came across the borders might well cause harm, but those who were at the borders letting people into this country did not?

The good news is that technology can help us. We can keep our borders open and free. We can have commerce that we need and at the same time separate those few bad apples. Technology will allow us to do that. But we are not doing it. Again, we run the risk that our porous borders will serve as an attraction to those who want to be in this country to do evil things, either here or abroad.

The amendment I have offered would provide funding necessary to strengthen the eyes and ears and coordination of personnel at our country's borders. Perhaps the greatest threat to our country as a whole is what New York Times columnist Thomas Friedman has called ''people of mass destruction'' or PMDs coming through our borders. It was people of mass destruction who turned airplanes into missiles on 9/11, and we have to do something to avoid that.

My amendment contains five parts. First, the amendment provides $200 million to help bring the biometric technology already at our busiest ports of entry up to the standards called for by the 9/11 Commission and the task force report. The 19 hijackers who invaded my city and our country 3 years ago ran through the borders in a wave of deception. Were there more accurate measures of identifying those terrorists when they entered the country, we might not have suffered 9/11.

Three years after 9/11, it is staggering that we are leaving so much of our safety up to the subjective, fallible judgment of individuals rather than to superior biometric technology. The first part of the amendment deals with upgrading that technology.

Second, my amendment would provide $50 million to help ensure that all travelers entering the United States are held to the same high level of scrutiny. Specifically, the amendment would provide funding to help persuade visa waiver program governments to produce passports compatible with the state-of-the-art biometric technology that I hope will be deployed at U.S. ports of entry.

Third, the amendment would provide $25 million to fund the expansion of the Homeland Security Department's exit and entry data systems to accommodate the ever increasing traffic of travelers in and out of our Nation's ports of entry. As the pace of globalization quickens, U.S. airports, bridges, and ports see a rising number of visitors. We have to have the technology to keep up with that increasing number.

Fourth, the amendment addresses the need to integrate the entry and exit data systems housed within the Department of Homeland Security, the FBI, and the Department of State. We have in our Government a number of sophisticated databases collecting critical information about individuals who could harm our country. Each of these systems has different access rules and runs on different algorithms. It makes integration of these systems with one another and with the people at the borders very chancy and difficult.

Finally, the amendment would provide $25 million to support a uniform transliteration and translation system to identify each visitor entering and exiting. You don't want to let someone in because Mohammed or Bill was spelled incorrectly and that person slipped through the borders.

I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. The bottom line is simple. We have a long way to go to make our borders safe. The frustration that many of us have is we can do it but we are not. Again, we are taking tiny baby steps where bold, imaginative, and large steps are required. No one, no matter what their ideology, party, or even vote on this measure, wants to repeat what happened at 9/11 when people came across our borders and should not have. This amendment will help close that loophole. It is worth the cost. I urge its adoption.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, this amendment would add to the bill $350 million for components of the United States Visitor and Immigration Status Indicator Technology system, known as US VISIT. We have included the amount requested by the administration in this bill for the US VISIT system in the amount of $340 million. So

the Senator's amendment would double the amount that is already included in the bill. The amendment will cause the bill to exceed the committee's 302(b) allocation. Therefore, I make a point of order under section 302(f) of the Congressional Budget Act that the amendment provides spending in excess of the subcommittee's 302(b) allocation.

Mr. SCHUMER. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be. There is.

The yeas and nays were ordered.

Mr. COCHRAN. Mr. President, under the order previously entered, there is an opportunity for consideration of a pending Kennedy amendment or the offering of amendment No. 3631 by Senator CLINTON.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

AMENDMENT NO. 3631

Mrs. CLINTON. Mr. President, I call up amendment No. 3631.

The PRESIDING OFFICER. The amendment is pending.

Mrs. CLINTON. Mr. President, this amendment—sponsored by myself and Senators ENSIGN, LAUTENBERG, FEINSTEIN, BOXER, and CORZINE—follows the recommendation in the 9/11 Commission. What it does is to put into our bill language that permits the Secretary of the Department of Homeland Security to allocate the money above the minimum that goes to all States. In other words, 38 percent of the money for homeland security will be distributed on a per capita basis to all States. The remaining 62 percent, which is the subject of my amendment, will be distributed as recommended by the 9/11 Commission and every other expert who has studied this issue on threat factors and risk assessments that will take into account matters such as population, population density, critical infrastructure, and such other factors as the Secretary considers appropriate.

We have debated this on the floor for a number of years. I engaged in a colloquy about this back in July of 2003 when we were considering the Homeland Security appropriations. I have spoken on numerous occasions with Secretary Ridge. I know we have been given assurance that there would be developed some kind of threat matrix so we could take into account the full range of issues that should be considered. I am not in any way suggesting what those factors should be. I think food security should be among them. I think our petrochemical complexes should be among them.

I think our laboratories in States such as New Mexico should be among them. I think there are probably threat-based assessments that would apply to every single State. But we know, having gone through this debate now year after year, that what happens is the path of least resistance is followed and the money is distributed on a per capita basis. I don't think that is good for any State, whether it is a large State or a small State, or any State in any part of our country.

Some have argued my amendment would take money away from other States, particularly the small States. It does not. The money that was guaranteed to the small States, to all States, will continue to flow. But what we have done is to say, wait a minute, the Secretary of this Department should begin to be able to develop a threat assessment. And let's look at our critical infrastructure. Every State has such infrastructure. Instead, the money is going out to the States and they are spending it as they see fit, without necessary regard for our national interests and our homeland security concerns, some of which cross State and county borders, and I believe that looking to this opportunity as recommended by the 9/11 Commission is absolutely essential.

So my amendment embodies the factors that were noted by the 9/11 Commission and it gives the administration—not me—and the Department of Homeland Security the discretion and authority to come up with any other factors they believe are relevant.

It is time we follow the advice of the experts—this Commission and the Rudman Commission. Every commission and every security expert who has looked at this has come to the same conclusion: We should give the Secretary discretion to develop a threat matrix to do a risk analysis, and then to make sure the money is distributed accordingly. I hope for the sake of our homeland defense and in keeping with the words of this Commission, you will support the Clinton-Ensign amendment. Senator ENSIGN wanted to get back in time to be part of the debate, but it moved a little more quickly than we had expected. I look forward to working with him and working with our colleagues to ensure that we do this right.

We have spent a lot of money and we have given a lot of equipment and given a lot of local communities money that, frankly, according to the articles that are often printed about this, they are looking for ways to spend.

Mr. President, I hope we will vote for this amendment.

I ask unanimous consent that Senator SCHUMER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, the funds allocated for this program in this bill are done on a formula basis under the provisions of the U.S.A. PATRIOT Act. The Senate Governmental Affairs Committee held hearings on this issue and has reported out a bill, S. 1245, the Homeland Security Grant Enhancement Act, to deal with domestic preparedness grants and how they are distributed. That is the legislation that is the appropriate vehicle for further debate and amendments if Senators want to offer amendments dealing with the formula for distributing State and local first responder grant funding.

This should not be done on an appropriation bill, on this bill, as the Senator seeks to do with her amendment. Therefore, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. Mr. President, I think we are at a point now where the Senator from Massachusetts has an amendment, which is the only one left under the agreed-upon process for finalizing the handling of the bill.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 3626

Mr. KENNEDY. Mr. President, I understand we have 2½ minutes. I yield myself 1 minute 15 seconds. I will yield the remaining time to my friend and colleague, the Senator from Florida, Senator GRAHAM.

Mr. President, in May of 2001, President Bush appointed General Scowcroft to review the intelligence system to make recommendations about how it could be more effective for the President of the United States. General Scowcroft has been relied upon by Democratic and Republican Presidents. He is one of the distinguished generals and foreign policy experts and arms control individuals. He issued such a report 3 months after 9/11.

It seems to me the most important decision we are going to make in this body by the time we have adjournment is going to be intelligence reform. This particular amendment says we believe the Scowcroft Commission report ought to be made available to all the Members of the Senate. If there has to be a classified annex, so be it. Over the course of the last weeks, we have had Secretary Rumsfeld who commented on it. This is what he said in the Armed Services Committee:

> I have been briefed on the Scowcroft Commission record. I don't see any reason why there shouldn't be a process so it can be declassified.

I asked him a question:

> Was there anything in there that you thought could be declassified?

He said:

> No, I cannot recall anything that could not be declassified.

Senator WARNER, for the record, said the Scowcroft Commission has not been released by the White House. We are going to seek to see whether we can have greater access to it.

Senator ROBERTS said:

> I had talked to Scowcroft last Thursday. I begged on my hands and knees to release the report.

That is what we are doing, releasing the report.

Mr. GRAHAM of Florida. I strongly support the amendment. We have had

too much classification of material, which has had the result of making us less secure, not more secure. The expert opinion of people like General Scowcroft ought to be made available to the American people and the Congress so it can be used as we attempt to construct systems that will make us safer.

There is no reason for the extensive classification process used in this administration, ranging from the Scowcroft report to the classification of 27 pages of our Senate-House joint inquiry relating to the role of foreign governments in assisting the terrorists. This would be a good place to start. The American people will be safer by our actions.

Mr. COCHRAN. Mr. President, let me make a couple points I think are important before we vote on this amendment. This is a report—the subject of this amendment by Senator KENNEDY—that was prepared at the President's request to advise him on intelligence issues. The report constitutes privileged advice to the President from a confidential adviser.

In order to protect the ability of not only this President but future Presidents in their ability to receive advice as a matter of separation of powers, recognized previously by the courts, Presidents of both parties have long declined to turn over to Congress privileged advice that is prepared for them at their request. For this same reason, the President does not ask Members of Congress to turn over advisory information prepared for us by our staff members. We think this is a tradition that should be honored in this case.

I am prepared to move to table the amendment if no other Senator wants to be recognized. If others want to speak on the issue, I am happy to yield the floor.

Mr. President, I move to table the amendment of the Senator from Massachusetts and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Mississippi (Mr. LOTT), and the Senator from Alabama (Mr. SESSIONS), are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the chamber desiring to vote?

The result was announced—yeas 49, nays 45, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—49

Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Ensign	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Shelby
Bunning	Graham (SC)	Smith
Burns	Grassley	Snowe
Chafee	Gregg	Specter
Chambliss	Hagel	Stevens
Cochran	Hatch	Sununu
Coleman	Hutchison	Talent
Collins	Inhofe	Thomas
Cornyn	Kyl	Voinovich
Craig	Lugar	Warner
Crapo	McCain	
DeWine	McConnell	

NAYS—45

Baucus	Dorgan	Levin
Bayh	Durbin	Lieberman
Biden	Feingold	Lincoln
Bingaman	Feinstein	Mikulski
Boxer	Graham (FL)	Murray
Breaux	Harkin	Nelson (FL)
Byrd	Hollings	Nelson (NE)
Cantwell	Inouye	Pryor
Carper	Jeffords	Reed
Clinton	Johnson	Reid
Conrad	Kennedy	Rockefeller
Corzine	Kohl	Sarbanes
Daschle	Landrieu	Schumer
Dayton	Lautenberg	Stabenow
Dodd	Leahy	Wyden

NOT VOTING—6

Akaka	Edwards	Lott
Campbell	Kerry	Sessions

The motion was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, my understanding of the order is another vote will occur on an amendment without intervening debate under the order?

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. This vote will be a 10-minute vote. Would the Chair state the question before the Senate?

Mr. REID. Will the Senator yield?

Mr. COCHRAN. I am happy to yield.

Mr. REID. Mr. President, I ask that the unanimous consent agreement be amended so that all succeeding votes be 10 minutes in duration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I thank the Chair.

VOTE ON AMENDMENT NO. 3656

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with respect to Schumer amendment No. 3656. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Mississippi (Mr. LOTT), and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 51, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—43

Baucus	Feinstein	Mikulski
Bayh	Graham (FL)	Murray
Biden	Harkin	Nelson (FL)
Boxer	Hollings	Nelson (NE)
Breaux	Inouye	Pryor
Byrd	Jeffords	Reed
Cantwell	Johnson	Reid
Carper	Kennedy	Rockefeller
Clinton	Kohl	Sarbanes
Corzine	Landrieu	Schumer
Daschle	Lautenberg	Specter
Dayton	Leahy	Stabenow
Dodd	Levin	Wyden
Durbin	Lieberman	
Feingold	Lincoln	

NAYS—51

Alexander	Crapo	Lugar
Allard	DeWine	McCain
Allen	Dole	McConnell
Bennett	Domenici	Miller
Bingaman	Dorgan	Murkowski
Bond	Ensign	Nickles
Brownback	Enzi	Roberts
Bunning	Fitzgerald	Santorum
Burns	Frist	Shelby
Chafee	Graham (SC)	Smith
Chambliss	Grassley	Snowe
Cochran	Gregg	Stevens
Coleman	Hagel	Sununu
Collins	Hatch	Talent
Conrad	Hutchison	Thomas
Cornyn	Inhofe	Voinovich
Craig	Kyl	Warner

NOT VOTING—6

Akaka	Edwards	Lott
Campbell	Kerry	Sessions

The PRESIDING OFFICER. On this question, the yeas are 43, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. COCHRAN. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3655

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with regard to amendment No. 3655 by the Senator from New York, Mr. SCHUMER.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from New Mexico (Mr. DOMENICI), the Senator from Mississippi (Mr. LOTT), and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 49, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—44

Baucus	Graham (FL)	Lincoln
Bayh	Hagel	Mikulski
Biden	Harkin	Murray
Boxer	Hollings	Nelson (FL)
Breaux	Hutchison	Nelson (NE)
Byrd	Inouye	Pryor
Cantwell	Jeffords	Reed
Clinton	Johnson	Reid
Corzine	Kennedy	Rockefeller
Daschle	Kohl	Sarbanes
Dayton	Landrieu	Schumer
Dodd	Lautenberg	Specter
Durbin	Leahy	Stabenow
Feingold	Levin	Wyden
Feinstein	Lieberman	

NAYS—49

Alexander	Craig	McConnell
Allard	Crapo	Miller
Allen	DeWine	Murkowski
Bennett	Dole	Nickles
Bingaman	Dorgan	Roberts
Bond	Ensign	Santorum
Brownback	Enzi	Shelby
Bunning	Fitzgerald	Smith
Burns	Frist	Snowe
Carper	Graham (SC)	Stevens
Chafee	Grassley	Sununu
Chambliss	Gregg	Talent
Cochran	Hatch	Thomas
Coleman	Inhofe	Voinovich
Collins	Kyl	Warner
Conrad	Lugar	
Cornyn	McCain	

NOT VOTING—7

Akaka	Edwards	Sessions
Campbell	Kerry	
Domenici	Lott	

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the point of order was sustained, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 3631

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to table amendment No. 3631. The yeas and nays have previously been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from New Mexico (Mr. DOMENICI), the Senator from Mississippi (Mr. LOTT), and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 39, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—54

Alexander	Daschle	Lincoln
Allard	Dayton	Lugar
Baucus	Dole	McConnell
Bayh	Dorgan	Miller
Bennett	Enzi	Murkowski
Bond	Feingold	Nelson (NE)
Brownback	Fitzgerald	Pryor
Bunning	Frist	Roberts
Burns	Graham (SC)	Rockefeller
Carper	Grassley	Shelby
Chafee	Gregg	Smith
Chambliss	Hagel	Snowe
Cochran	Harkin	Stevens
Coleman	Hatch	Sununu
Collins	Inhofe	Talent
Conrad	Johnson	Thomas
Craig	Kohl	Voinovich
Crapo	Kyl	Wyden

NAYS—39

Allen	Ensign	McCain
Biden	Feinstein	Mikulski
Bingaman	Graham (FL)	Murray
Boxer	Hollings	Nelson (FL)
Breaux	Hutchison	Nickles
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Clinton	Kennedy	Santorum
Cornyn	Landrieu	Sarbanes
Corzine	Lautenberg	Schumer
DeWine	Leahy	Specter
Dodd	Levin	Stabenow
Durbin	Lieberman	Warner

NOT VOTING—7

Akaka	Edwards	Sessions
Campbell	Kerry	
Domenici	Lott	

The motion was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3607

Mr. COCHRAN. Mr. President, under the previous order, the amendment of the Senator from Florida adding funds for the Red Cross is the pending business, which should be adopted by voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3607) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3614, 3643, 3644, 3646, 3647, AND 3648, EN BLOC

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate proceed to the en bloc consideration of the following amendments: amendment No. 3614 proposed by Ms. COLLINS and Mr. PRYOR; amendment No. 3647 proposed by Ms. STABENOW, Mr. CRAIG, Mr. LEVIN, Mr. CRAPO, Mr. JEFFORDS, Mr. BIDEN, and Mr. ROCKEFELLER; amendment No. 3648 proposed by Mr. SHELBY; amendment No. 3643 proposed by Mr. ROBERTS; amendment No. 3646 proposed by Mr. TALENT and Mr. BOND; and amendment No. 3644 proposed by Ms. MURKOWSKI, Mr. INOUYE, and Mr. STEVENS.

These amendments have been agreed to on both sides of the aisle, and I ask they be adopted en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc and are adopted en bloc.

The amendments were agreed to, as follows:

AMENDMENT NO. 3614

(Purpose: To set aside $50,000,000 from the amount appropriated for law enforcement terrorism prevention grants to identify, acquire, and transfer homeland security technology, equipment, and information to State and local law enforcement agencies)

On page 19, line 22, strike the colon and insert the following: '', of which $50,000,000 shall be used for grants to identify, acquire, and transfer homeland security technology, equipment, and information to State and local law enforcement agencies:''

AMENDMENT NO. 3643

(Purpose: To express the sense of the Senate concerning the American Red Cross and Critical Biomedical Systems)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING THE AMERICAN RED CROSS AND CRITICAL BIOMEDICAL SYSTEMS.

(a) FINDINGS.—The Senate finds that—

(1) the blood supply is a vital public health resource that must be readily available at all times, particularly in response to terrorist attacks and natural disasters;

(2) the provision of blood is an essential part of the critical infrastructure of the United States and must be protected from threats of terrorism;

(3) disruption of the blood supply or the compromising of its integrity could have wide-ranging implications on the ability of the United States to react in a crisis; and

(4) the need exists to ensure that blood collection facilities maintain adequate inventories to prepare for disasters at all times in all locations.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Department of Homeland Security's Information Analysis and Infrastructure Protection should consult with the American Red Cross to—

(1) identify critical assets and interdependencies;

(2) perform vulnerability assessments; and

(3) identify necessary resources to implement protective measures to ensure continuity of operations and security of information technology systems for blood and blood products.

AMENDMENT NO. 3644

(Purpose: To encourage the Secretary of Homeland Security to place special emphasis on the recruitment of American Indians, Alaska Natives, and Native Hawaiians into Disaster Assistance Employee cadres maintained by the Emergency Preparedness and Response Directorate)

At the appropriate place, insert the following:

SEC. ___. DISASTER ASSISTANCE EMPLOYEE CADRES OF EMERGENCY PREPAREDNESS AND RESPONSE DIRECTORATE.

(a) IN GENERAL.—The Secretary of Homeland Security is encouraged to place special emphasis on the recruitment of American Indians, Alaska Natives, and Native Hawaiians for positions within Disaster Assistance Employee cadres maintained by the Emergency Preparedness and Response Directorate.

(b) REPORT.—The Secretary of Homeland Security shall report periodically to the Senate and the House of Representatives with respect to—

(1) the representation of American Indians, Alaska Natives, and Native Hawaiians in the Disaster Assistance Employee cadres; and

(2) the efforts of the Secretary of Homeland Security to increase the representation of such individuals in the cadres.

AMENDMENT NO. 3646

(Purpose: To express the sense of the Senate that the Director of the Office for State and Local Government Coordination and Preparedness be given limited authority to approve requests from State Homeland Security Directors to reprogram Federal homeland security grant funds to address specific security requirements based on credible threat assessments)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. It is the sense of the Senate that—

(1) the Director of the Office for State and Local Government Coordination and Preparedness be given limited authority to approve requests from the senior official responsible for emergency preparedness and response in each State to reprogram funds appropriated for the State Homeland Security Grant Program of the Office for State and Local Government Coordination and Preparedness to address specific security requirements that are based on credible threat assessments, particularly threats that arise after the State has submitted an application describing its intended use of such grant funds;

(2) for each State, the amount of funds reprogrammed under this section should not exceed 10 percent of the total annual allocation for such State under the State Homeland Security Grant Program; and

(3) before reprogramming funds under this section, a State official described in paragraph (1) should consult with relevant local officials.

AMENDMENT NO. 3647

(Purpose: To allow State Homeland Security Program grant funds to be used to pay costs associated with the attendance of part-time and volunteer first responders at terrorism response courses approved by the Office for State and Local Government Coordination and Preparedness)

On page 21, line 4, insert ''*Provided further*, That funds under this heading may be used to provide a reasonable stipend to part-time and volunteer first responders who are not otherwise compensated for travel to or participation in terrorism response courses approved by the Office for Domestic Preparedness, which stipend shall not be paid if such first responder is otherwise compensated by an employer for such time and shall not be considered compensation for purposes of rendering such first responder an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.):'' after ''Homeland Security:''.

AMENDMENT NO. 3648

(To require the President's fiscal year 2006 budget to include an amount sufficient for funding a certain level of maritime patrol capability)

On page 16, line 4, before the period at the end, insert the following: '': *Provided, further*, That the budget for fiscal year 2006 that is submitted under section 1105(a) of title 31, United States Code, may include an amount for the Coast Guard that is sufficient to fund delivery of a long-term maritime patrol aircraft capability that is consistent with the original procurement plan for the CN–235 aircraft beyond the three aircraft already funded in previous fiscal years''.

AMENDMENT NO. 3653, AS MODIFIED

Mr. REID. Mr. President, amendment No. 3653 is at the desk. I send a modification to that amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], proposes an amendment numbered 3653, as modified.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 23, insert before the last period '': *Provided*, That not to exceed $53,000,000 may be provided for transportation worker identification credentialing and $2,000,000 for tracking trucks carrying hazardous material''.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

The amendment (No. 3653), as modified, was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I call to the attention of the members of the Appropriations Committee that there will be a markup in our committee of three bills at 10:30. We will also consider appropriations bills on the floor tomorrow morning.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENTS NOS. 3657, 3658, AND 3659, EN BLOC

Mr. COCHRAN. Mr. President, I send three amendments to the desk: one on behalf of Senators DURBIN and AKAKA; one on behalf of Senator DOMENICI; and one on behalf of Senator TALENT. I understand these amendments have been cleared on both sides of the aisle. I ask unanimous consent that they be adopted en bloc.

The PRESIDING OFFICER. Without objection, the amendments are adopted en bloc.

The amendments were agreed to, as follows:

AMENDMENT NO. 3657

(Purpose: To provide for reporting by the Chief Financial Officer and the Chief Information Officer of the Department of Homeland Security)

On page 39, between lines 5 and 6, insert the following:

SEC. 515. Sections 702 and 703 of the Homeland Security Act of 2002 (6 U.S.C. 342 and 343) are amended by striking '', or to another official of the Department, as the Secretary may direct'' each place it appears.

AMENDMENT NO. 3658

At the appropriate place, insert the following:

SEC. .

Section 208(a) of Public Law 108–137; 117 Stat. 1849 is amended by striking ''current'' and inserting ''2005''.

AMENDMENT NO. 3659

(Purpose: To require the Secretary of Agriculture to deploy disaster liaisons when requested by a Governor or appropriate State agency in a federally declared disaster area)

At the appropriate place, insert the following:

SEC. ___. LIAISON FOR DISASTER EMERGENCIES.

(a) DEPLOYMENT OF DISASTER LIAISON.—If requested by the Governor or the appropriate State agency of the affected State, the Secretary of Agriculture may deploy disaster liaisons to State and local Department of Agriculture Service Centers in a federally declared disaster area whenever Federal Emergency Management Agency Personnel are deployed in that area, to coordinate Department programs with the appropriate disaster agencies designated under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(b) QUALIFICATIONS.—A disaster liaison shall be selected from among Department employees who have experience providing emergency disaster relief in federally declared disaster areas.

(c) DUTIES.—A disaster liaison shall—

(1) serve as a liaison to State and Federal Emergency Services;

(2) be deployed to a federally declared disaster area to coordinate Department interagency programs in assistance to agricultural producers in the declared disaster area;

(3) facilitate the claims and applications of agricultural producers who are victims of the disaster that are forwarded to the Department by the appropriate State Department of Agriculture agency director; and

(4) coordinate with the Director of the State office of the appropriate Department agency to assist with the application for and distribution of economic assistance.

(d) DURATION OF DEPLOYMENT.—The deployment of a disaster liaison under subsection (a) may not exceed 30 days.

(e) DEFINITION.—In this section, the term ''federally declared disaster area'' means—

(1) an area covered by a Presidential declaration of major disaster, including a disaster caused by a wildfire, issued under section 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); or

(2) determined to be a disaster area, including a disaster caused by a wildfire, by the Secretary under subpart A of part 1945 of title 7, Code of Federal Regulations.

MODIFICATION TO AMENDMENT NO. 3589

Mr. COCHRAN. Mr. President, notwithstanding the adoption of amendment No. 3589, I ask unanimous consent that the amendment be modified with the following change: On line 7 of the amendment, insert ''and the Committee on Environment and Public Works of the Senate'' after ''Governmental Affairs.''

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the three amendments adopted previously were agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Will the Senator yield?

Mr. COCHRAN. I will be happy to yield to my friend.

Mr. REID. Mr. President, we worked real hard today. It is my understanding we will have no votes tomorrow.

Mr. COCHRAN. Mr. President, I yield the floor.

DUGWAY PROVING GROUND'S FIRST RESPONDER CLASSES

Mr. HATCH. Mr. President, I would like to compliment my friend, Senator

COCHRAN. He has been a tireless advocate for defending the homeland. His subcommittee has made impressive strides in helping to prepare first responders for a day that we all hope will never come. Therefore, I rise to share my thoughts about the First Responder Classes that are taught at Dugway Proving Ground.

These Ph.D driven courses focus on agent characteristics, sampling, protection, detection, decontamination and chemical/biological production recognition, such as the difference between clandestine drug laboratories, industrial accidents or chemical/biological production capabilities. Additionally, Dugway, as part of its effort to provide innovative training capabilities, has also built a ''training town'' in order for students to assess a situation and determine the proper course of action. The high quality of these classes is reflected in the comments from the Chief of the HAZMAT Unit of one of our largest cities who has categorized the program as ''one that all first responders should attend'' and many other students that have stated it was the best training they had experienced.

Mr. COCHRAN. I thank my colleague for his kind words. Identifying the very best in first responder training programs is a priority for the subcommittee. Accordingly, the subcommittee has created a system in which the Department of Homeland Security distributes funding through a competitive grant program. I appreciate the Senator's comments on the quality of classes conducted at Dugway Proving Ground. I look forward to hearing about the program's continued progress in the future.

Mr. HATCH. Mr. President, I appreciate my colleague's comments.

PORT SECURITY GRANTS

Mr. AKAKA. Mr. President, I rise today to engage in a colloquy concerning language in the Senate version of H.R. 4567, the Department of Homeland Security Appropriations Act, regarding the distribution of the port security grant program.

Under current policy, any port designated as a critical national seaport terminal may apply for a port security grant even though the grants are funded through the Urban Area Security Initiative, UASI, grant program. I would like to clarify that it is the intent of Congress that the port security grant program continue to be administered in this manner, and not limited to ports in UASI cities, as such a policy would deprive many American ports of crucial security funding.

I would like to ask my distinguished colleague from Mississippi if he agrees that it is the intent of Congress to continue the distribution of port security grants to all national critical seaports as has been done in the past?

Mr. COCHRAN. Mr. President, the Senator from Hawaii is correct. I appreciate the opportunity to clarify this point. It is not the intent of the Appropriations Committee to limit the recipients of port security grants to only UASI cities but rather to maintain the distribution criteria utilized in the fiscal year 2003 wartime supplemental.

Mr. INOUYE. Mr. President, will the distinguished Senator from Mississippi yield for a clarification?

Mr. COCHRAN. I yield to the senior Senator from Hawaii.

Mr. INOUYE. Mr. President, it is my understanding that the House version of the Homeland Security appropriations bill has language that clarifies this point. I would like to express my hope that the House language be preserved in the final version of the bill.

FLOOD ASSISTANCE

Mr. CARPER. Mr. President, I thank Senator COCHRAN and Senator BYRD for working with Senator BIDEN and me to try and assist the community of Glenville, in New Castle County, DE. About 1 year ago, on September 16, 2003, Tropical Storm Henri dropped between 8 and 10 inches of rain on the northern part of our State over a 14-hour period. Glenville was hardest hit. Every street in that development, home to 200 families, was flooded. Many resident's had to be rescued from their homes by boat. Hurricane Isabel hit just days later, causing further damage. Virtually the entire community is now uninhabitable.

Mr. BIDEN. Mr. President, Delaware Governor Ruth Ann Minner's requests for Federal disaster relief following Henri and Isabel was approved and FEMA was on the ground in Glenville immediately to assist. Since last September, however, we have come to the realization that more help is needed. Repairs to flood-damaged homes would be difficult because Glenville, hit hard in 1994 by Hurricane Floyd, is certain to suffer repeated flooding. The State of Delaware and New Castle County have now stepped in with $15 million each to purchase and destroy flood-damaged homes.

Mr. COCHRAN. I appreciate the Senators' comments regarding the disaster situation in Delaware last September. There are two programs at the Federal Emergency Management Agency to address a portion of this problem. The first program is the Hazard Mitigation Grant Program which is available to States such as the Senators' which have been declared disaster areas by the President. I am informed by FEMA that funds are available to assist the Glenville community with home buyouts. The other program available to the State is the Pre-Disaster Mitigation Program which is a Federal grant program which accepts competitive applications. However, I understand that these programs do not provide the resources to fully buy out the Glenville community at one time.

Mr. CARPER. I appreciate the Senator's comments. Delaware is now facing the beginning of another hurricane season. With the amount of money the State and the county have put into the mitigation effort in Glenville, we are concerned that they may be hard pressed to respond effectively to another storm like Henri or Isabel.

Mr. BIDEN. I know that no existing FEMA program was intended to buy out an entire community but $30 million is a lot of money in a State like mine. I believe additional Federal assistance for Glenville will help the State and the county finish their work there while maintaining sufficient emergency response capacity to deal with future storms.

Mr. COCHRAN. I thank the Senators from Delaware for this discussion and assure them that I will continue to assist them in their effort to work with FEMA on additional Federal funding.

Mr. DORGAN. Mr. President, I thank the managers of the Homeland Security Appropriations bill, Senators COCHRAN and BYRD, for agreeing to accept an amendment that I cosponsored. This amendment will ensure prompt funding for the accelerated deployment of Northern Border Air Wing run by the Department of Homeland Security.

In the wake of the September 11 attacks, Congress mandated the establishment of a Northern Border Air Wing. The Department of Homeland Security, which is responsible for implementing this initiative, intends to have 5 bases, in Washington, Montana, North Dakota, Michigan, and New York, from which planes can be dispatched to track, identify, and intercept any unauthorized aircraft detected on the northern border.

I have been working with Department officials in particular on their plan to base one of those air wings in Grand Forks, ND, which is a major aerospace center, and would be an invaluable base in this effort.

Despite the urgency of this initiative, the dollars were simply lacking for its prompt implementation. At the funding levels called for in the administration's budget and the original appropriations bill, the Northern Border Air Wing would not have been fully established, staffed, and equipped until 2008.

This amendment will allow the Department of Homeland Security to procure aircraft for, and begin operations at, all 5 air bases on the northern border in fiscal year 2005.

I believe that this is an essential step, and I thank my colleagues for accepting our amendment.

Mr. BIDEN. Mr. President, I will vote in favor of this Homeland Security Appropriations bill today, but I do so with great reservation and with the knowledge that its funding levels are woefully inadequate for the job of providing an effective defensive front in the war on terror.

Our highest priorities, as a Congress and as a Nation, have to be the security of the homeland and prevailing in the fight against terrorism. I fear that the bill before us does not provide the resources necessary to meet these priorities.

This bill does not reflect my priorities, nor does it represent a homeland

security budget I would write. I voted against the President's budget when it was before the Senate earlier this year. One of the main reasons I gave then for my opposition to the majority's budget resolution was its low level of funding for homeland security. Today, unfortunately, we are seeing the results of that budget.

The President's priorities seem to be along the lines of tax cuts for the wealthy and a missile defense system. Those are not my priorities. My priorities are the safety and security of my constituents and of the Nation. This bill reflects the President's priorities, as his tax cuts have left us with too few dollars to adequately secure the homeland.

Let me give just a few examples of where this bill is deficient. Senator BYRD offered an amendment to add $2 billion to this $33 billion Homeland Security Appropriations bill. I voted in favor of this proposal; yet, the majority voted in lock-step against it. Senator BYRD included in his amendment funds to double the amounts allocated to deploy radiation monitors at our ports. The Department of Homeland Security estimates it will cost $496 million to deploy enough radiation monitors to screen all inbound containerized cargo at the Nation's busiest ports; yet, the Department has insisted upon deploying this technology over a 5-year period. I do not believe we have 5 years to wait, and Senator BYRD would have doubled the pace of this effort. How can opponents justify voting against these funds?

Also included in this $2 billion amendment was an additional $100 million to beef up passenger security screening at airports. One of the portions of the 9/11 Commission's Report that leapt out at me dealt with the security vulnerabilities that remain in our airports. According to the Commission, ''[t]he TSA and the Congress must give priority attention to improving the ability of screening checkpoints to detect explosives on passengers. As a start, each individual selected for special screening should be screened for explosives.''

I expect it would surprise many of my constituents to know that the long lines we all go through at airports do not result in passengers being screened only for metal objects. When Russian airplanes are being blown out of the sky, likely by Chechen terrorists carrying explosives, and when the so-called ''shoe bomber,'' Richard Reid, tries to blow up a Miami-bound plane with carried-on explosives, we know we need to do a better job. But this bill provides only $75 million to continue to test for chemical and explosive material. Industry representatives have reported to me that these systems are ready to be deployed now, and that we need merely to spend the resources necessary to deploy them around the country. The $100 million proposed by Senator BYRD would have started us down that road, and I do not know how those who voted against these funds justify their position.

How can my friends on the other side of the aisle vote against additional resources to secure our seaport and railway systems? The $2 billion I referenced earlier also included an additional $350 million for transit and rail security grants, along with an additional $125 million for port security grants.

Not once since the attacks of 9/11 has the administration asked for an additional dollar of funding to protect passengers on our Nation's rails. More people pass through Penn Station in New York City every day than pass through all 3 of that city's major airports, to take just one example. But not a dime of new money has been requested by the President to protect those passengers.

The Commerce committee, under the leadership of Senator MCCAIN and Senator HOLLINGS, has reported legislation authorizing over $1.1 billion to enhance rail security. As my good friend from California has said, that legislation has not passed the Senate. In fact, since the attacks of 9/11 the Congress has refused to authorize additional security resources for Amtrak. Anonymous holds on the other side of the aisle have blocked action for 2 Congresses. The administration has done nothing to get that legislation—bipartisan bills—moving. That ought to be a scandal.

I am pleased that the amendment offered by Senator CARPER and Senator BOXER has been accepted. That will give Amtrak a fighting chance to get some of the funding this bill makes available for rail and transit security. But this will not feed the bulldog, Mr. President. This will not close the obvious gaps in our rail security. Given the low priority that rail security has been given, despite known and announced threats, I can only hope that Amtrak will get its share of the funds. I hope that when we revisit rail security in the next Congress, we will not regret the delay and penny-pinching that we have displayed on this issue.

This bill is underfunded and shortsighted, and I regret that the amendments I supported to add needed homeland security dollars were not included. While the bill before us today does not reflect my priorities, I will vote for it so that funds can continue to flow to our States, our critical infrastructures, and for the day-to-day operations of the Department of Homeland Security. But I look forward to debating appropriations bills that do reflect my priorities, and that truly do all we should do to secure the homeland and wage an effective war on terror.

Mr. BOND. Mr. President, I lend my support to a very important issue that would provide funding for the permanent installation of explosive detection system, EDS, equipment in airports. This amendment would increase the overall amount of money of EDS installation from $250 million to $325 million. I have been joined by Senator JOHN ENSIGN of Nevada and a bipartisan group of Senators in this very important effort to enhance security and convenience for our Nation's air travelers.

As passengers traveling through St. Louis, Kansas City, and other airports across the country have surely noticed, a number of bulky baggage screening machines sit in crowded terminal buildings where they were temporarily placed in the aftermath of 9/11.

I am concerned that the current situation creates safety and security risks and unduly inconveniences the traveling public since passengers are forced to work their way around these obtrusive machines. Additionally, the current in-lobby configuration unnecessarily wastes Federal resources since in-lobby equipment requires additional screening personnel to operate, transfer bags, and the like.

The goal of our amendment is to provide additional resources to move EDS equipment from airport lobbies out of the way and behind the scenes as part of an airport's baggage system. This is a costly undertaking requiring extensive construction at airports. The project cost estimate at St. Louis, for example, is $90 million, and $34 million at Kansas City. Nationwide, estimates to permanently install EDS equipment in airports run from $4 billion to $5 billion.

While costly, it is clear that EDS installation should be a high priority for the Federal Government. I made that point in a March letter to the Senate subcommittee responsible for drafting the DHS spending bill. Additionally, I would note that the 9/11 Commission Report, which Congress is in the midst of considering, also calls for expediting the ''installation of advanced (in-line) baggage screening equipment as part of its aviation-related recommendations.''

Our amendment is fully offset through a reduction of $75 million in an account aimed at establishing information technology connectivity between TSA and airports. While IT connectivity is certainly an important goal, that account has been increased by $154 million over last year's level under the current bill, and a $75 million reduction still leaves $218 million available for that purpose.

Given the difficulties that airports around the country are beginning to face with increasing wait times at screening checkpoints as air traffic continues to rebound, it is critical that we act now to move forward with EDS installation projects as quickly as possible. Adoption of this amendment is critical if we are to make any real progress in that regard.

Mr. MCCAIN. Mr. President, as we debate the Department of Homeland Security appropriations bill for fiscal year 2005, threats against our country and our way of life continue to mount. The reality of the world in which we live today is that terrorists are plotting ways to destroy our way of life

and seek to destroy the freedoms and liberties we cherish.

The recently released 9/11 Commission report outlines the failures that lead to the September 11 terrorist attacks and poses 41 recommendations on how to address identified failures and deter future terrorist attacks. Senators LIEBERMAN, SPECTER, BAYH and others have joined with me introducing legislation that encompasses all of the Commission recommendations. A number of the Commission's recommendations relate directly to the Department of Homeland Security and merit discussion today.

Obviously, one of the best ways to prevent terrorists from attacking our country is to prevent them from entering in the first place. The Commission urges the Government to integrate watch lists, speed up the full implementation of USVISIT, which is an automated biometric exit and entry program, and work with our allies to better coordinate terrorist travel intelligence. Actions must be taken to close current gaps in our security that allow people to travel into the United States without passports or other identification. Though challenging, it will be possible to tighten security and implement needed changes as recommended by the Commission without unnecessarily impeding the flow of people in and out of our country.

The Commission also was clear that ''[h]omeland security assistance should be based strictly on an assessment of risks and vulnerabilities'' and that ''Congress should not use this money as a pork barrel.'' As the Commission reported, ''[p]opulation density, vulnerability and critical infrastructure should be the criteria by which homeland security assistance is based. I whole-heartedly agree. We must continue to resist any urge to earmark homeland security funds and I am pleased by the restraint the Appropriations Committee has once again shown while considering this homeland security funding legislation.

Just 2 years ago, we created the third largest Government agency, the Department of Homeland Security, bringing 21 distinct Federal agencies under the direction of one Department. Since that time, considerable progress has been made in protecting our country. However, as succinctly stated in the Commission's report, we are still not safe. We have yet to adequately develop strong measures to protect our air, land, and sea ports of entry. Our borders remain porous. We need to develop more efficient ways for states and localities to receive much needed funding to increase their preparedness for a terrorist attack. I also remain very concerned at the continuing problems surrounding interoperability.

I commend the chairman of the DHS Subcommittee, Senator COCHRAN, for developing an appropriations bill with minimal earmarks or unrequested spending. Although this is only the second Homeland Security Appropriations bill, I remain encouraged that the Appropriations Committee has resisted the urge to load its DHS appropriations legislation with unrequested spending. I urge my colleagues to hold strong as the bill continues through the legislative process.

I would be remiss if I did not point out that the few earmarks contained in this bill are targeted, as usual, to the home States of appropriators. Examples of earmarks and directive language include:

The bill provides $15.4 million for the Coast Guard's bridge alteration program, despite the fact that the President requested no funds for this program. The report then earmarks the funds as follows: $4.4 million for the Florida Avenue Bridge, New Orleans, LA; $3 million for the EJ&E Railroad Bridge, Morris, IL; $5 million for the Fourteen Mile CSX Railroad Bridge, Mobile, AL; $3 million for the Burlington Northern Santa Fe Bridge, Burlington, IA.

The bill provides $5 million above the President's request for identified perimeter security and firearms range needs, and the report specifies that the extra funds are to be spent at the Federal Law Enforcement Training Center in Artesia, NM;

Agricultural pests: citing Hawaii's ''globally significant natural environment,'' the Committee report states that DHS should work with the U.S. Department of Agriculture and the Hawaii Department of Agriculture in sharing information and expertise to ensure protection against agricultural pests. In this time of heightened security and exploding federal budgets, one should question the need for such a provision. I, for one, had not been unaware of an impending scourge of agricultural pests—pests that obviously have the good sense to live in a state that is popular travel destiny—pose a threat to the security of the homeland.

Out of the acquisition, construction, improvements and related expenses account provided for the Federal Law Enforcement Training Center, the committee report specifically identifies alterations and maintenance funding for buildings at four locations three of which happen to be represented by appropriators. The locations are Artesia, NM; Cheltenham, MD; Charleston, SC; and Glynco, GA.

Mr. President, the role of our Department of Homeland Security is perhaps most vital when it comes to protecting our Nation's borders. I am pleased that the committee has continued to fund improvements in the technology available for the Department of Homeland Security to protect our borders. However, money alone will not solve this problem. We must reform our immigration laws while we work to improve border security.

Historians will judge the 108th Congress by the way we address international terrorism and respond to the attacks of September 11. While much work remains to be done to secure our homeland, including action on 9/11 Commission recommendations, we can take another important step by passing this legislation.

Mr. President, once again, I thank the appropriators for their efforts to move a relatively clean homeland security appropriations bill. I yield the floor.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from New Mexico (Mr. DOMENICI), the Senator from Mississippi (Mr. LOTT), and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—93

Alexander	Dodd	Lincoln
Allard	Dole	Lugar
Allen	Dorgan	McCain
Baucus	Durbin	McConnell
Bayh	Ensign	Mikulski
Bennett	Enzi	Miller
Biden	Feingold	Murkowski
Bingaman	Feinstein	Murray
Bond	Fitzgerald	Nelson (FL)
Boxer	Frist	Nelson (NE)
Breaux	Graham (FL)	Nickles
Brownback	Graham (SC)	Pryor
Bunning	Grassley	Reed
Burns	Gregg	Reid
Byrd	Hagel	Roberts
Cantwell	Harkin	Rockefeller
Carper	Hatch	Santorum
Chafee	Hollings	Sarbanes
Chambliss	Hutchison	Schumer
Clinton	Inhofe	Shelby
Cochran	Inouye	Smith
Coleman	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stabenow
Cornyn	Kohl	Stevens
Corzine	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lautenberg	Thomas
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wyden

NOT VOTING—7

Akaka	Edwards	Sessions
Campbell	Kerry	
Domenici	Lott	

The bill (H.R. 4567), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment and requests a conference with the House of Representatives on the disagreeing votes of the two Houses.

The Presiding Officer appointed Mr. COCHRAN, Mr. STEVENS, Mr. SPECTER, Mr. DOMENICI, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mr. CAMPBELL, Mr. CRAIG, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. KOHL, and Mrs. MURRAY conferees on the part of the Senate.

Mr. SANTORUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business for debate only with Senators speaking up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO KATIE ILG

Mr. DEWINE. Mr. President, I come to the Senate today with mixed emotions. A very important, very trusted member of my staff—Katie Ilg—is leaving our office to embark on a host of new adventures in Chicago. While I am happy for her and proud of her as she begins this new chapter in her life, I am also sad to see her go. Katie has become a central figure in our office. As my executive assistant, she has been my right hand for the last year and a half. She has been my friend.

I take a few minutes today to talk about Katie and the impact she has had on my office and me and to thank her for all she has done for us.

Katie first came to us in April 2000, after graduating from John Carroll University near Cleveland. Her first job in my office was as a staff assistant, where she answered phones, dealt with flag requests, and gave tours of the Capitol. The thing that most impressed me about Katie was that she would always go the extra mile for Ohio constituents—or anyone who wandered into my office, for that matter. She would listen to them with great compassion and concern. She was patient and understanding and a great ambassador for my office.

Of course, this is not surprising to anyone who knows Katie. The fact is that people are drawn to her. She endears herself to people. She is kind to people. She goes out of her way for others. She isn't showy or elaborate or judgmental. She just cares about people—constituents, colleagues, strangers. She reads people, and she worries about them.

It is also not surprising that Katie moved up in my office quickly. By December 2000, she took a position as my personal assistant. Though, after a year and a half, she left our office briefly to work for JP Morgan, she came back in February 2003—this time as my executive assistant, a management position that put her in charge of my personal assistant and scheduler.

Katie has thrived in this job. She is an excellent manager and role model. She works so hard and is so dedicated. She is always looking out for me—always taking care of me, always putting up with me—which, some would say is certainly not an easy thing to do. I've called her at all hours, and she's always there to help—always there with the same enthusiasm and good nature. Katie never complains, or makes excuses, or passes the buck to someone else. No job is ever too small—or too big.

Indeed, Katie Ilg is a very special young woman. No one knows that better than the people Katie has worked with in my office. I'd like to share some of the words that my staff has used to describe Katie. I think they paint a very accurate picture of exactly who she is.

Katie is ''thoughtful and thorough.'' She is ''sweet, bubbly, ebullient, compassionate, generous, warm, steady—a calming influence.''

''She is willing to do anything for others. She is always there for you when you need her—whether in a work environment or on a personal level. She is the person everyone goes to for support, a good job done, a laugh, a joke. . . . She keeps the office alive!''

''Katie is cute, perky, friendly, positive, upbeat.''

And, no matter who you ask, there are four words that everyone uses to describe her:

Katie is caring, selfless, genuine—and short! She makes me look tall! Though Katie is a tiny little thing in body, she is a giant in spirit. She is a powerful, positive force, who is smart, quick, and intuitive. She makes good decisions—good choices. She follows her heart and trusts her instincts. Above all else, Katie makes a difference each day—not in big splashy ways, necessarily, but in just a touch on the shoulder or through a kind word.

Katie is a good person. And, there is goodness in everything that she does.

As her dear friend Matt said, ''Whether comforting a family member in a time of loss or discomfort, counseling a friend through a difficult life challenge or affliction, celebrating a success with a co-worker or classmate, or orienting an old friend to a new city, Katie is always there with genuine and heartfelt words, actions, and deeds no matter the occasion and regardless of the other personal commitments she has at the time. . . . She has the ability to be a friend and confidant to all, whether you have known her for 8 years or 8 days.''

In conclusion, I'd like to say a word to Katie's parents, Tim and Mimi Ilg. Thank you. Katie is solid in her values and beliefs. She is grounded. She is ethical. She has a great sense of right and wrong. And, she loves her family more than anything else in the world. She is a good daughter to you; granddaughter to Lois; sister to Julie; companion to that boy in Detroit, we know as Mert; and friend to countless others.

Every once in a while, we are fortunate enough to have a Katie Ilg come into our lives. Without question, Katie has been one of the best things to happen to my office since I have been here in the Senate. While my wife, Fran, and I are sad to see her go, we know it is time for her to move on, as she has many more lives to touch and people to help.

We know she will just be a phone call or an e-mail away. And, I'm sure we'll see her at a few OSU football games this fall. Nevertheless, we're going to miss you, Katie Ilg. God bless you, and thank you for everything. You are certainly one of a kind.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On May 30, 2000 in Salt Lake City, UT, a man armed with a pellet gun stormed into a gym, fired several shots, and made threatening comments to the gay people in the gym. The club's manager said the gym is a health and social club for gay and straight men.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

TRIBUTE TO NANCY KASSEBAUM BAKER AND AMBASSADOR HOWARD BAKER

Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to our former Senate colleagues, Nancy Kassebaum Baker and Ambassador Howard Baker, for their leadership in organizing a regional conference in Tokyo on ''strategies for combating human trafficking in Asia.'' Together, they led the U.S. Embassy's effort to bring together government officials, nongovernmental organizations and multilateral organizations in a 2-day

conference in June on the most effective ways to deal with the global scourge of human trafficking. The conference was cosponsored by the Vital Voices Global Partnership and the International Labor Organization.

The conference took place several days after the publication of the State Department's annual Trafficking in Persons Report. Japan and other countries were placed on the ''watch list'' for not fully complying with minimum standards for the elimination of human trafficking. Officials from the National Policy Agency of Japan and the Justice Ministry participated in the conference, and several high level officials were among the keynote speakers. Japan announced that it has established an inter-ministerial body to address the challenge through a number of actions, including drafting new legislation to strengthen existing rules and penalties. Representatives from many other countries including India, Cambodia, Thailand, the Philippines, Russia, and Colombia, also participated in the conference, as did U.S. Government officials.

Each year, at least 1 million human beings, predominantly women and children, are shipped across national boundaries and sold into what has become modern-day slavery. Traffickers use fraud, coercion and outright kidnapping to obtain their victims. No country is immune from this problem. Both the United States and Japan are destination countries. Such trafficking is a flourishing criminal industry, second only to criminal drug and arms trafficking. Human trafficking is an urgent global challenge and progress against it is possible only through international cooperation.

As Ambassador Baker said in opening the meeting: ''I hope the ideas that come out of this conference help victims all over the world.'' I commend our two former Senate colleagues for convening this significant conference to raise international awareness of human trafficking and for bringing countries together to exchange best practices and develop effective strategies to combat it. Their leadership is an excellent example of our Nation's commitment to address this global scourge.

DEATH OF HUGH LANGDON ELSBREE

Mr. LOTT. Mr. President, I rise today to pay tribute to Hugh Langdon Elsbree, who served as the Director of the Library of Congress' Legislative Reference Service, LRS, from 1958 to 1966. The LRS was the forerunner of the Congressional Research Service, CRS. Dr. Elsbree, a resident of the Washington area for more than 50 years, died on August 30, 2004. He was 100 years old.

Dr. Elsbree joined the Legislative Reference Service as a research counsel in 1945 and served as senior specialist in American Government and Public Administration from 1946 to 1954. After he was promoted to Deputy Director in 1955, he became Director in 1958 and served in that position until he retired in 1966.

Dr. Elsbree was born in Preston Hollow, N.Y., on Feb. 24, 1904. He graduated from Phillips Andover Academy in 1921 and received three degrees from Harvard University: a Bachelors in 1925, Masters in 1927, and Doctorate in 1930. He was also elected a member of Phi Beta Kappa.

Dr. Elsbree taught in Harvard's Government Department from 1928 to 1933 and then at Dartmouth University from 1933 to 1943. Dr. Elsbree was a political science professor from 1937 to 1943 and chairman of Dartmouth's Political Science Department from 1937 to 1941.

His Government service began with a short stint as a research specialist for the Federal Power Commission in 1934 and continued during World War II. He moved to Washington and worked for the Office of Price Administration as principal business economist from 1943 to 45 and for the Bureau of Budget as an administrative analyst from 1945 to 46.

During the period of his library service, he was given a special assignment as deputy director of research for the Commission on Intergovernmental Relations from 1954 to 1955, and from March 1957 to September 1958 he served as chairman of the Political Science Department at Wayne State University.

A longtime member of the American Political Science Association, Dr. Elsbree was the managing editor of the American Political Science Review—1952–56. After he retired from the LRS, Dr. Elsbree and his LRS predecessor, Ernest S. Griffith, edited a series of 35 volumes on U.S. Government departments and agencies.

When Dr. Elsbree retired in 1966, the Senator ROBERT BYRD paid tribute to Dr. Elsbree's accomplishments in the CONGRESSIONAL RECORD. Senator BYRD said in part: A political scientist of wide repute and a dedicated public official, Dr. Elsbree has earned the respect and the confidence of the Congress through his skillful and competent leadership of the Legislative Reference Service in a period when Congress has experienced its greatest need for research assistance.

To Dr. Elsbree's brother, Willard, his son, Hugh L. Elsbree, Jr. and his family, friends, and former colleagues, I extend the Senate's deepest sympathies.

TRIBUTE TO SENATOR ARTHUR H. VANDENBERG

Mr. LEVIN. Mr. President, today I join all of my colleagues in paying tribute to one of the giants of the United States Senate, a son of Michigan, Senator Arthur H. Vandenberg.

Earlier today, the Senate Commission on Art unveiled a wonderful portrait, painted by Tennessee artist Michael Shane Neal, of Senator Vandenberg in the Reception Room just outside of this Chamber. The Senate, in 2000, selected Senator Vandenberg for this rare honor, along with Senator Robert F. Wagner of New York. They join only five others, known as the ''Famous Five'' whose portraits grace the beautiful Reception Room, Senators Henry Clay of Kentucky, Daniel Webster of Massachusetts, John C. Calhoun of South Carolina, Robert M. La Follette, Sr. of Wisconsin, and Robert A. Taft of Ohio.

Arthur Vandenberg was born in Grand Rapids, MI on March 22, 1884. After studying law at the University of Michigan, he worked as a reporter for the Grand Rapids Herald, later becoming the managing editor for the paper. Following the death of U.S. Senator Woodbridge Ferris in March 1928, he was appointed by Governor Fred Green to fill the vacancy, a seat that he was already campaigning for. In November of 1928, he was elected in his own right. He was reelected three times, rose to become chairman of the Senate Foreign Relations Committee and the President Pro-Tempore of the Senate and served in the Senate until his death, from lung cancer, in 1951. Although he is best known for his views on foreign policy, among his many notable accomplishments was the establishment of the FDIC, the Federal Deposit Insurance Corporation in 1933.

Vandenberg entered the Senate as an isolationist, an advocate of very limited U.S. involvement in international affairs. However, after the Japanese attack at Pearl Harbor, he recognized the Nation's greater interest and rose above partisanship to become one of the strongest proponents of a bipartisan foreign policy. On January 10, 1945, in this chamber, he delivered the ''speech heard round the world'' calling for the establishment of the United Nations. He was largely responsible for drafting the 1945 United Nations Charter, and he steered its passage through the Senate. He played a leading role in constructing the Marshall Plan, and he engineered the Senate ratification of the NATO Treaty.

A couple of years ago I read David McCullough's best-selling biography of Harry Truman. The book makes clear the indispensable role of Vandenberg in forging and maintaining the bipartisan coalition in Congress that supported Truman's successful post-World War II strategy establishing America's place as a leader of the free world and setting in motion the foreign policy which ultimately decades later won the cold war.

Senator Arthur Vandenberg's call to ''unite our official voice at the water's edge'' resonated for many years, uniting Republicans and Democrats in support of the Nation's foreign policy through administrations of both parties. The impact of his words were all the greater because of his own political roots as a isolationist Republican leader. Vandenberg, himself, often liked to

point out, Pearl Harbor ended isolationism for any realist.

Arthur Vandenberg was a forward-looking man who saw beyond partisan politics and worked for the good of the country. His service in the Senate is an example of true bipartisan leadership, which is so desperately needed today.

I know that all of my colleagues in the Senate and the people of Michigan join me in celebrating the life and works of this son of Michigan, and in congratulating the family of Senator Arthur H. Vandenberg.

VOTE EXPLANATION

Mr. REED. Mr. President, during Senate consideration of Senate amendments 3615 and 3617, I was attending a memorial service for the father of my Rhode Island colleague, Representative JAMES LANGEVIN. Had I been present for these votes I would have voted against the motion to table amendment No. 3615, and I would have voted to waive the point of order against amendment No. 3617.

DEATH OF FIREFIGHTER EVA SCHICKE

Mrs. BOXER. Mr. President, today, it is with a heavy heart that I pay tribute to a fallen California firefighter.

Firefighter Eva Schicke was killed on Sunday, September 12, when her crew was overwhelmed by flames after being dropped by helicopter to fight a wildfire in the Tuolumne River Canyon of the Stanislaus National Forest.

Eva Schicke was part of an elite 7-person helicopter wildfire crew stationed at Columbia Air Attack Base in Columbia, CA. She and the six other members of this helicopter crew selflessly risked their lives trying to protect our communities and our treasured forests.

A graduate of California State University at Stanislaus where she played basketball and majored in criminal justice, Eva Schicke worked part time as a firefighter for more than 4 years. When she died she was beginning to pursue a career in nursing—yet another testament to her generosity of spirit and her desire to serve the community.

Not only was Ms. Schicke one of the few female firefighters to serve, she is now, tragically, the first ever female firefighter from the California Department of Forestry to die in the line of duty.

I offer my sincere condolences to her family, friends, and classmates. I know they must be devastated by the loss of this courageous, young woman.

I take this opportunity to extend my gratitude to the search and rescue team that went back in to recover Ms. Schicke's body.

I also extend my gratitude and express my admiration for all of our firefighters, particularly the six members of the Columbia Helitack Team that fought by Ms. Schicke's side and were themselves injured in that fire. The people of California honor their work. May God bless them for their dedication and service.

WILLIAM MCSWEENY

Mr. LEAHY. Mr. President, my wife Marcelle and I have been privileged to know Bill and Dorothy McSweeny during the time I have been in the Senate.

During my conversations with them, I have especially appreciated their sense of history. When Mr. McSweeny writes an op-ed piece, based on his knowledge and experience, I think we should pay special attention.

Recently, he wrote one for the Washington Post. Nothing I could say would add to the value of this fine statement, so I ask unanimous consent it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 18, 2004]

NO DEBATING A SENSE OF DUTY

(By William McSweeny)

I am from that generation of younger brothers who just missed World War II and went to war against communism in Korea in 1950. Many of us became fathers to those who fought in Vietnam and grandfathers to those fighting in Iraq.

I would not presume to speak for a whole generation, but as a veteran of that combat, I say it is time to tell both presidential campaigns to cease their macho posturing and get on with real programs to run—or save—our country.

In our long-ago time, we went to war reluctantly against an unknown enemy in an unknown land.

But, we went.

The conditions were harsh. The fighting—pre-instant TV—was ferocious at the front and mostly unseen at home. When we came back, no one particularly cared, and only one film (''Pork Chop Hill'') and a handful of books remain to mark our passing.

That and a free South Korea.

We weren't noticeably upset at men who deferred service and went to college (except those who stole our girls). We didn't come home with rows of medals—although many of us came home with injuries that still warn us of changes in the weather. We didn't do any complaining. We just came home and got on with our lives.

Why did we go? Why did we allow our young bodies and our young psyches to be subjected to a war so forgotten that even today it has not been mentioned by either candidate, both of whom failed to notice the anniversary of its June beginning and July ending?

I believe it was because we knew that we should. Some of us enlisted as regular Army infantry privates and later became combat officers because other men of the ''greatest generation'' had done it and we should too. It is a young man's reaction to a sense of responsibility and duty, done without much forethought.

That, I believe, is the key ingredient in John Kerry's service in Vietnam—and why both campaigns should drop this contrived issue.

He did not have to go—because he had been. His tour on a destroyer was overseas time enough. But he went to the boats because other young men were there. The men and the boats had a mission—and he commanded, because he could. That is enough for me. I couldn't care less whether he received a medal. The rest of it is frosting. There is no honor in this debate for our country. We need to know whether a man can save the economy and slow terrorism, not listen to harangues about who was a shooter and who was a dodger.

Most of the real heroics are performed by young kids and young officers who just accept it as a cost of doing business in the peculiar exchange that is a combat battleground. The whole place—and it does not matter which war we describe—is one of fear, noise, smoke, confusion and a strange comradeship where you might risk your life for someone you will never see again. I don't know what the expression is in the Navy, but the Army's bittersweet joke is that the two most dangerous words in the English language are ''follow me.'' It takes courage to utter those words and to follow that command—something any veteran of any combat will recognize.

It is time for some of us older veterans to take one last stand and call on both parties to drop this base and meaningless debate. At the end of the day, and the end of the battle, medals are just symbols. And the bravery of thousands of our soldiers has passed into history unheralded by stars and ribbons. By engaging in mudslinging over this issue, both campaigns undermine the bravery and honor of all who serve in times of war and peace. And they distract us from the real issues of this election.

John Kerry heard the siren song of his moment—that fragile call on the wind that is the call to the colors. He went. He came back. I give him credit for that. If he threw some ribbons over the fence, he's welcome to mine. They lie quietly in a desk drawer, entombed with memories of better men who lie in the dirt of faraway fields, where there really is no glory, but where courage and compassion came with the C-rations.

They believed ours was a great country, one that fought not for conquest or for gain but because freedom isn't free and someone has to pay for it. The bill comes due again in this election. Let's hope these two candidates don't leave us paupers.

HUNGARIAN GOLD TRAIN

Mrs. CLINTON. Mr. President, on May 24, 2004, 17 Senators wrote to Attorney General John Ashcroft to urge him to resolve the claims brought by several thousand elderly Holocaust survivors in the matter of the Hungarian Gold Train. These survivors seek restitution and an accounting for the mishandling, loss and theft of their property in the years after World War II. Administrations of both parties have made clear our belief that when faced with evidence of wrongdoing, governments should not rely on legalisms and technicalities to avoid responsibility. Those of us who wrote the Attorney General hoped that our own Government would rise to the same level of accountability when its own conduct was at fault.

Unfortunately, the Justice Department continues to resist these survivors strenuously in court. One disturbing tactic is to try to undercut the Government's own research and admissions. The facts about the Hungarian Gold Train were first brought to light by the Presidential Advisory Commission on Holocaust Assets, chaired by

Edgar Bronfman, in a ''Progress Report'' issued in October 1999. The commission called the Gold Train ''a mysterious example of a single egregious failure of the United States to follow [its own] policy'' regarding restitution of Holocaust victims' property after World War II. Now, however, in its recent filings in Federal court, the Justice Department claims that the PCHA somehow retracted or backed away from its findings. However, I recently received a powerful letter from Edgar Bronfman, the chairman of that commission. Mr. Bronfman makes plain that the commission stands by its report, which, as he points out, is still prominently displayed on its website. I ask unanimous consent that Mr. Bronfman's letter be made part of the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EDGAR M. BRONFMAN,
New York, NY, August 25, 2004.

Hon. HILLARY R. CLINTON,
U.S. Senate, Washington, DC.

DEAR SENATOR: I have been reading your efforts as a member of the United States Senate to address some of the open but extremely important issues in the arena of restitution for living victims of the Holocaust and their heirs. In particular, I am aware, as was reported in the recent edition of The National Journal, that you have taken on a leadership role in seeking a fair and rapid settlement of the Hungarian Gold Train matter.

As you know, I had the privilege of serving as the Chairman of the Presidential Advisory Commission on Holocaust Assets in the United States (''PCHA'') from its inception in 1998 through its conclusion in December 2000.

PCHA was established by act of Congress (P.L. 105–186) in 1998. the enabling legislation directed PCHA to ''conduct a thorough study and develop a historical record of the collection and disposition of the assets'' taken from victims of the Holocaust by Nazi Germany or by the governments it controlled, ''if such assets came into the possession or control of the Federal Government'' at any time after January 30, 1933. As part of its task, PCHA was directed to file such interim reports with the President as it deemed appropriate, and to submit a final report to the President containing any recommendations for legislative, administrative or other actions it deemed necessary or appropriate.

Puruant to its Congressional mandate PCHA issued one such interim report on October 14, 1999, the Progress Report On: The Mystery Of The Hungarian Gold Train (''Progress Report''). The Progress Report is a comprehensive and in-depth historical analysis of the Gold Train story and is, in my view, an accurate account of the United States' handling and disposition of the ''Gold Train'' property. Tragically, that report made public the long-concealed facts that the United States mishandled the Hungarians' property and disposed of it in violation of our laws, a blemish on an otherwise magnificent record at that time.

When I learned that the Department of Justice has criticized the Progress Report, and attempted to minimize its significance in the current Federal court litigation, I wanted to contact you about this urgent matter and state my position as the former PCHA Chairman.

In December 2000 PCHA issued its final report as required by P.L. 105–186. This report, Plunder and Restitution: The U.S. and Holocaust Victims' Assets (''Plunder and Restitution''), did not repeat all the findings of the Progress Report. There was no need to repeat all of the specific findings because they had already been made public and remained available. Rather the findings were summarized along with many others in the final report. In no way, however, did PCHA intend to retract or retreat from the findings of the Progress Report. In fact, for years the Progress Report remained prominently displayed on PCHA's web site and it remains there today at http://www.holocaustassets.gov/.

I hope this clarifies the historical record and addresses any questions your colleagues may have on this point.

Yours sincerely,

EDGAR M. BRONFMAN.

Mrs. CLINTON. It is time for the Justice Department to do the right thing. It is time to stop the delay and stop hiding behind legalisms and technicalities. The Government should work with the survivors to pay fair, timely and long overdue restitution. As my colleagues and I wrote in May, for these survivors, justice delayed is justice denied.

ADDITIONAL STATEMENTS

40TH YEAR ANNIVERSARY OF THE LATIN AMERICAN RESEARCH AND SERVICE AGENCY

● Mr. CAMPBELL. Mr. President, I take this opportunity to recognize a significant service agency in my home State of Colorado.

Forty years ago in Denver, CO a small group of visionaries worked to achieve their dream of eliminating the disparities that existed between Latinos and the mainstream community.

Prior to the passage of the Civil Rights Act on July 2, 1964, these visionaries incorporated the first 501(c) 3 non-profit agency in the Nation to address the specific needs of Latinos. On March 3, 1964, the Latin American Research and Service Agency was born. Working with these visionaries was an enlightened philanthropic organization that was the first in the Nation to take a risk of giving a significant grant to a Latino based agency. That agency at the time known as the United Fund is today known as the Mile High United Way.

Much has happened over the past four decades since attorney Roger Cisneros first wrote the incorporation papers for LARASA. In November of 1964 Mr. Cisneros became the first Hispanic elected to the Colorado Senate since the early 1900's. Bernard (Bernie) Valdez, the first Hispanic appointed to a Denver Mayor's Cabinet was the first Chairman of LARASA's Board of Directors. Ms. Lena Archuletta who was the first Hispanic to serve as a school principal in the Denver Public Schools system was the first Secretary of the Board. Also serving on the first board of directors was Rodolfo ''Corky'' Gonzales a leader in the Chicano Movement and Herrick Roth former leader of the Colorado Labor Movement and founder of the Colorado Forum.

Today LARASA continues to provide leadership in the areas of health, education, public policy, leadership development and community outreach. On the occasion of their 40th Anniversary I am proud to recognize their significant achievements by entering this statement into the RECORD.●

RECOGNIZING IOWA EDUCATORS WHO PARTICIPATED IN THE NATIONAL HISTORY DAY 2004 SUMMER TEACHER INSTITUTE, POLITICS AND THE PRESS: THE INFLUENCE OF THE MEDIA ON HISTORY

● Mr. GRASSLEY. Mr. President, I would like to take a moment to congratulate two Iowa educators, Kelly Smith Arickx, a teacher at Rockford High School in Nora Springs, IA and Naomi Peuse, an educator at the State Historical Society of Iowa in Des Moines, IA. They were part of a group of 25 educators selected from across America to participate in the National History Day 2004 Summer Teacher Institute, ''Politics and the Press: The Influence of the Media on History.'' The institute took place from July 25 to July 30, 2004, at the University of Maryland in College Park, Maryland.

This select group of participants from across the country had the opportunity to work with prominent journalists and historians. They were exposed to an array of resources, including oral histories and discussions, learning about various primary source materials that can be incorporated into teaching.

I am pleased to recognize Kelly Smith Arickx and Naomi Peuse for their accomplishment in having been selected to participate in the National History Day Summer Teacher Institute. I am proud to have had them representing my home State of Iowa.●

NATIONAL POW/MIA RECOGNITION DAY

● Mr. CAMPBELL. Mr. President, I wish to say a few words today about the significance of observing September 14, 2004 as National POW/MIA Recognition Day, which honors the memory of the POWs and MIAs who have served in our Nation's wars.

As my colleagues know, the United States has fought in numerous wars and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action. In 20th Century wars alone, more than 147,000 Americans were captured and became Prisoners of War; of that number more than 15,000 died while in captivity. When we add to this number those who are still missing in action, we realize that we cannot do enough to remember their service.

As a veteran who served in Korea, I personally know that the remembrance

of another's sacrifice in battle is one of the highest and most noble acts we can perform. Remembering demonstrates our indebtedness and gratitude for those who served that we might live in freedom.

Many of us have visited one or more of the military academies that train America's future military leaders. These academies have varied missions and yet all of them share in the critical task of developing leaders for their particular branch of service. On the grounds of each academy is a chapel, spectacular places that are easily identifiable as places of worship.

In each chapel, a place has been reserved for those prisoners of war and the missing in action from each particular service. A pew has been set aside and marked by a candle, a powerful symbol that not all have returned from battle. These hallowed places have been set aside so that all POWs and MIAs are remembered with dignity and honor. It is a moving and emotional experience to pause at these reserved pews, to be encouraged by the burning candle, to recall the valor and sacrifice of those soldiers, sailors, marines, and pilots and to be inspired today by what they have done.

Yet, I believe we can and should do more to honor the memory of all the POWs and MIAs who have so gallantly served our Nation.

The display of the POW/MIA flag is a forceful reminder that we care not only for them, but also for their families who personally carry with them the burden of sacrifice. We want them to know that they do not stand alone, that we stand with them and beside them, as they remember the loyalty and devotion of those who served.

Mr. President, I believe that those who have been captured or are missing in action in the Nation's wars deserve to be honored with dignity and devotion. So today I ask my colleagues to join me in honoring these Americans and their families by remembering their sacrifice and declaring that it will never be forgotten.●

TRIBUTE TO COACH SAMMY DUNN

● Mr. SHELBY. Mr. President, I pay tribute to a great Alabamian who has made it his life's work to teach our youth about being great athletes, fair sportsmen, and strong members of their community.

Mr. Sammy Dunn, baseball coach of Vestavia Hills High School, was recently inducted into the Alabama Sports Hall of Fame and named the National High School Coaches Association baseball coach of the year. He has dedicated his life to coaching young men, not just on the athletic field, but in life's lessons.

For 27 seasons, Coach Dunn served as head baseball coach at Vestavia Hills High School, where he built a nationally recognized program. He won more games than any baseball coach in the history of Alabama and has a 621–159 record, a staggering .796 winning percentage. From 1991 to 2000, he led the Vestavia Hills Rebels to 10 State titles, including a record 7 consecutive titles between 1994 and 2000. In 1998, the Rebels were voted national champions by Baseball America and the Baseball Coaches Association. In 2000, Vestavia Hills High School named its baseball field in honor of Coach Dunn.

Throughout Coach Dunn's tenure, more than 100 players signed baseball scholarships, and some went on to play professionally, including veteran Oakland Athletic's pitcher Chris Hammond, Cincinnati Red's pitcher Josh Hancock, and New York Yankee pitching prospect Colter Bean. Moreover, his leadership inspired a handful of his former players to pursue coaching careers, including his son Casey, who is the head coach at Samford University.

Coach Dunn's lifelong devotion to young people and the sport of baseball made him an outstanding coach and much deserving of these recent accolades. He is a devoted husband to Linda, dedicated father to Casey, father-in-law to Marty, and grandfather to Sam. I wish him my sincerest congratulations on all of his achievements.●

TRIBUTE TO WCAX TELEVISION

● Mr. JEFFORDS. Mr. President, I pay tribute today to WCAX Channel 3, the CBS affiliate based in South Burlington, VT, which will reach a milestone this month when it marks its 50th year of broadcasting.

WCAX has documented many changes in my home State during that half-century, some for the better, some not. But Channel 3's crucial role in chronicling history cannot be overstated. From its coverage of high school baseball to State House politics, Channel 3 gives Vermonters the news they need. The station's patriarch, Stuart ''Red'' Martin, is as much a part of the Vermont fabric as the State's dairy farms and dirt roads.

Vermont had the distinction of being the very last State in the Nation to have its own television station when WCAX aired its first broadcast from a transmitter at the top of Mount Mansfield, according to the authors of the recently released book, ''Freedom and Unity: a History of Vermont.''

In this book, the authors write, ''By then, the image of Vermont both within and outside the State as an isolated, rural, museumlike, homogeneous, and unchanging society was becoming increasingly difficult to maintain.'' Indeed it was, and Channel 3 was there to broadcast Vermont's changing image into living rooms from one end of the State to the other.

Today, Channel 3 has a little more competition than it did back in 1954, but it maintains the distinction of being ''Vermont's Own.'' Over the years, Channel 3 has amassed a variety of impressive awards too numerous to list. But suffice it to say that many a political career has risen or fallen based on Channel 3 news coverage, and some of us are better off for it. Now if they would just purge that old file tape!

Thank you, Channel 3, for being there through all these years of public service—from helping farmers through the Agriculture Extension Service to the advent of satellite hookups—to capture Vermont's rich and unique history.●

MESSAGE FROM THE HOUSE

At 5:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1318. An act to name the Department of Veterans Affairs outpatient clinic in Sunnyside, Queens, New York, as the ''Thomas P. Noonan, Jr., Department of Veterans Affairs Outpatient Clinic''.

H.R. 2400. An act to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam.

H.R. 2457. An act to authorize funds for an educational center for the Castillo de Sam Marcos National Monument, and for other purposes.

H.R. 3056. An act to clarify the boundaries of the John H. Chafee Coast Barrier Resources System Cedar Keys Unit P25 on Otherwise Protected Area P25P.

H.R. 3478. An act to amend title 44, United States Code, to improve the efficiency of operations by the National Archives and Records Administration and to reauthorize the National Historical Publications and Records Commission.

H.R. 4027. An act to authorize the Secretary of Commerce to make available to the University of Miami property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University for a Marine Life Science Center.

H.R. 4481. An act to amend Public Law 86–434 establishing Wilson's Creek National Battlefield in the State of Missouri to expand the boundaries of the park, and for other purposes.

H.R. 4632. An act to designate the facility of the United States Postal Services located at 19504 Linden Boulevard in St. Albans, New York, as the ''Archie Spigner Post Office Building''.

H.R. 4836. An act to name the Department of Veterans Affairs medical center in Amarillo, Texas, as the ''Thomas E. Creek Department of Veterans Affairs Medical Center''.

H.R. 5008. An act to provide an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through September 30, 2004, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 363. Concurrent resolution expressing the grave concern of Congress regarding the continuing gross violations of human rights and civil liberties of the Syrian and Lebanese people by the Government of the Syrian Arab Republic.

H. Con. Res. 407. Concurrent resolution saluting the life and courage of the late Commander Lloyd ''Pete'' Bucher, United States Navy (retired), who commanded the U.S.S.

Pueblo (AGER–2) at the time of its capture by North Korea on January 23, 1968.

The message further announced that the House has passed the following bill, without amendment:

S. 1576. An act to revise the boundary of Harpers Ferry National Historical Park, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1318. An act to name the Department of Veterans Affairs outpatient clinic in Sunnyside, Queens, New York, as the ''Thomas P. Noonan, Jr., Department of Veterans Affairs Outpatient Clinic''; to the Committee on Veterans Affairs.

H.R. 2400. An act to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam; to the Committee on Energy and Natural Resources.

H.R. 2457. An act to authorize funds for an educational center for the Castillo de San Marcos National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3056. An act to clarify the boundaries of the John H. Chafee Coast Barrier Resources System Cedar Keys Unit P25 on Otherwise Protected Area P25P; to the Committee on Environment and Public Works.

H.R. 3478. An act to amend title 44, United States Code, to improve the efficiency of operations by the National Archives and Records Administration and to reauthorize the National Historical Publications and Records Commission; to the Committee on Governmental Affairs.

H.R. 4027. An act to authorize the Secretary of Commerce to make available to the University of Miami property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University for a Marine Life Science Center; to the Committee on Commerce, Science, and Transportation.

H.R. 4481. An act to amend Public Law 86–434 establishing Wilson's Creek National Battlefield in the State of Missouri to expand the boundaries of the park, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4632. An act to designate the facility of the United States Postal Service located at 19504 Linden Boulevard in St. Albans, New York, as the ''Archie Spigner Post Office Building''; to the Committee on Governmental Affairs.

H.R. 4836. An act to name the Department of Veterans Affairs medical center in Amarillo, Texas, as the ''Thomas E. Creek Department of Veterans Affairs Medical Center''; to the Committee on Veterans' Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 363. Concurrent resolution expressing the grave concern of Congress regarding the continuing gross violations of human rights and civil liberties of the Syrian and Lebanese people by the Government of the Syrian Arab Republic; to the Committee on Foreign Relations.

H. Con. Res. 407. Concurrent resolution saluting the life and courage of the late Commander Lloyd ''Pete'' Bucher, United States Navy (retired), who commanded the U.S.S. Pueblo (AGER–2) at the time of its capture by North Korea on January 23, 1968; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–9139. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—September 2004'' (Rev. Rul. 2004–69) received on August 26, 2004; to the Committee on Finance.

EC–9140. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''2004 National Protocol'' (Rev. Proc. 2004–52) received on August 26, 2004; to the Committee on Finance.

EC–9141. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Guidance Under Section 1502; Treatment of Loss Carryovers from Separate Return Limitation Years'' (RIN1545–BD58) received on August 26, 2004; to the Committee on Finance.

EC–9142. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Plan Amendments Following Election of Alternative Deficit Reduction Contribution'' (Notice 2004–59) received on August 26, 2004; to the Committee on Finance.

EC–9143. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''July-September 2004 Bond Factor Amounts'' (Rev. Rule 2004–89) received on August 26, 2004; to the Committee on Finance.

EC–9144. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Extension of Time to Elect Method for Determining Allowable Loss'' (TD9154) received on August 26, 2004; to the Committee on Finance.

EC–9145. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Subsidiary Stock Loss Under Section 1.337(d)–2T'' (Notice 2004–58) received on August 26, 2004; to the Committee on Finance.

EC–9146. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Guidance on Discrepancies Caused by Acquisitions, Statutory Mergers, or Consolidations'' (Rev. Proc. 2004–53) received on August 26, 2004; to the Committee on Finance.

EC–9147. A communication from the Chief, Regulations Branch, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Technical Corrections to Customs and Border Protection Regulations'' (CBP Dec 04–28) received on September 6, 2004; to the Committee on Finance.

EC–9148. A communication from the Chief, Regulations Branch, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Patent Surveys'' (RIN1561–AA36) received on September 6, 2004; to the Committee on Finance.

EC–9149. A communication from the Chief, Regulations Branch, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Customs Broker License Examination Date'' (RIN1651–AA46) received on September 6, 2004; to the Committee on Finance.

EC–9150. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, a report entitled ''US-Dominican Republic-Central America Free Trade Agreement: Potential Economywide and Selected Sectoral Effects''; to the Committee on Finance.

EC–9151. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, National Wildlife Refuge Service, transmitting, pursuant to law, the report of a rule entitled ''2004–2005 Refuge Specific Hunting and Sport Fishing Regulations'' (RIN1018–AT40) received on September 6, 2004; to the Committee on Energy and Natural Resources.

EC–9152. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Accounting and Auditing Relief for Marginal Properties'' (RIN1010–AC30) received on September 13, 2004; to the Committee on Energy and Natural Resources.

EC–9153. A communication from the Director, Office of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Assistant Secretary for Environmental Management, Department of Energy, received on September 6, 2004; to the Committee on Energy and Natural Resources.

EC–9154. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, a report relative to vegetation management practices for designated transmission facilities and rights-of-way; to the Committee on Energy and Natural Resources.

EC–9155. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the amount of acquisitions made by the Department of Energy that manufacture the articles, materials, or supplies outside of the United States; to the Committee on Energy and Natural Resources.

EC–9156. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Maryland Regulatory Program'' (MD–054–FOR) received on September 8, 2004; to the Committee on Energy and Natural Resources.

EC–9157. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Adequacy of Minnesota Municipal Solid Waste Landfill Program'' (FRL#7810–9) received on September 8, 2004; to the Committee on Energy and Natural Resources.

EC–9158. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions from Existing Hospital/Medical/Infectious Waste Incinerator Units'' (FRL#7810–7) received on September 8, 2004; to the Committee on Energy and Natural Resources.

EC–9159. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Approval of Revisions to the Title V Operating Permit Program in the State of New Mexico, Albuquerque/Bernalillo County, New Mexico, and the State of Arkansas'' (FRL#7810–2) received on September 8, 2004; to the Committee on Energy and Natural Resources.

EC–9160. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report entitled ''Quality of Water, Colorado River Basin, Progress Report No. 21''; to the Committee on Energy and Natural Resources.

EC–9161. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Compacts of Free Association with the Republic of the Marshall Islands (RMI) and the Federated States of Micronesia (FSM); to the Committee on Energy and Natural Resources.

EC–9162. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Extension of Time for Filing Written Statement Under Rev. Proc. 2004–23'' (Rev. Proc. 2004–57) received on September 8, 2004; to the Committee on Finance.

EC–9163. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''I.R.C Sec. 7805(b) Relief from Retroactive Application of Rev. Rule 2004–75'' (Rev. Rule 2004–97) received on September 8, 2004; to the Committee on Finance.

EC–9164. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update Notice—Pension Funding Equity Act of 2004'' (Notice 2004–60) received on September 8, 2004; to the Committee on Finance.

EC–9165. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Transfers of Compensatory Options'' (TD9148) received on September 8, 2004; to the Committee on Finance.

EC–9166. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Kaffenberger v. United States 314 F 3d944 (8th Cir. 2003)'' (AOD2004–35) received on September 8, 2004; to the Committee on Finance.

EC–9167. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Diane Fernandez v. Commissioner'' (AOD 2004–35) received on September 8, 2004; to the Committee on Finance.

EC–9168. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Section 42 Q&A II'' (Rev. Rule 2004–82) received on September 8, 2004; to the Committee on Finance.

EC–9169. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Section 988 Foreign Currency Denominated Contingent Debt Instruments'' (RIN1545–AW33) received on September 8, 2004; to the Committee on Finance.

EC–9170. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Bureau of Labor Statistics Prices Indexes for Department Stores'' (Rev. Rul. 2004–93) received on September 8, 2004; to the Committee on Finance.

EC–9171. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Appeals Settlement Guidelines: Leasing Promotions—Penalties for Leasing Stripping Transactions'' (UIL:9300.03–00) received on September 8, 2004; to the Committee on Finance.

EC–9172. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Determination of Interest Rates—October 1, 2004'' (Rev. Rule 2004–92) received on September 8, 2004; to the Committee on Finance.

EC–9173. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Evidence Requirements for Assignment of Social Security Numbers (SSNs); Assignment of SSNs to Foreign Academic Students in Immigration and Naturalization Classification Status F1'' (RIN0960–AF87) received on September 9, 2004; to the Committee on Finance.

EC–9174. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements, other than treaties; to the Committee on Foreign Relations.

EC–9175. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the export of Oleoresin Capsicum (OC) riot control equipment and rubber hand ball grenades to the Iraq Ministry of Interior; to the Committee on Foreign Relations.

EC–9176. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a designation of acting officer for the position of Assistant Administrator, Bureau for Africa, U.S. Agency for International Development; to the Committee on Foreign Relations.

EC–9177. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a discontinuation of service in acting role for the position of Assistant Administrator, Bureau for Asia and the Near East, U.S. Agency for International Development; to the Committee on Foreign Relations.

EC–9178. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Administrator, Bureau for Asia and the Near East, U.S. Agency for International Development; to the Committee on Foreign Relations.

EC–9179. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a vacancy for the position of Assistant Administrator, Bureau for Africa, U.S. Agency for International Development; to the Committee on Foreign Relations.

EC–9180. A communication from the Secretary of State, transmitting, pursuant to law, a report prepared by the Department of State relative to the Authorization for the Use of Force Against Iraq Resolution; to the Committee on Foreign Relations.

EC–9181. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of texts and background statements for international agreements, other than treaties; to the Committee on Foreign Relations.

EC–9182. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 to Japan; to the Committee on Foreign Relations.

EC–9183. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially in the amount of $100,000,000 or more to the United States; to the Committee on Foreign Relations.

EC–9184. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed transfer of major defense equipment valued at $25,000,000 or more to the governments of Belgium, Denmark, the Netherlands, and Norway; to the Committee on Foreign Relations.

EC–9185. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed transfer of major defense equipment valued at $25,000,000 or more to Spain; to the Committee on Foreign Relations.

EC–9186. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed transfer of major defense equipment valued at $25,000,000 or more to the Netherlands; to the Committee on Foreign Relations.

EC–9187. A communication from the Inspector General, Railroad Retirement Board, transmitting, pursuant to law, the report of the Office of Inspector General for fiscal year 2006; to the Committee on Governmental Affairs.

EC–9188. A communication from the Director, Office of Personnel Management, Division for Strategic Human Resources Policy, transmitting, pursuant to law, the report of a rule entitled ''Executive Performance and Accountability'' received on September 6, 2004; to the Committee on Governmental Affairs.

EC–9189. A communication from the Chairman, Federal Trade Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending March 31, 2004; to the Committee on Governmental Affairs.

EC–9190. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of the Office of Inspector General for the period from October 1, 2003 to March 31, 2004; to the Committee on Governmental Affairs.

EC–9191. A communication from the Director for Benefit Design and Compliance, AgriBank, transmitting, pursuant to law, a report relative to the financial condition of the Retirement Plans for the Employees of the Seventh and Eleventh Farm Credit Districts and Northwest Farm Credit Services; to the Committee on Governmental Affairs.

EC–9192. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–488, ''Multiple Dwelling Residence Water Lead Level Test Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–9193. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–489, ''District Government Reemployed Annuitant Offset Elimination Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9194. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–490, ''Juvenile Flotation

Device Requirement Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9195. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–491, ''Washington Convention Center Authority Advisory Committee Continuity Third Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9196. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–492, ''Free Clinic Assistance Program Extension Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9197. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–498, ''Board of Education Continuity and Transition Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9198. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–503, ''Inspector General Appointment and Term Clarification Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9199. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–504, ''Washington Convention Center Authority Advisory Committee Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9200. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–505, ''Georgetown Project and Noise Control Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9201. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–506, ''Captive Insurance Company Enhancement Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9202. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–521, ''Commission on Human Rights Establishment Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9203. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–522, ''Office of Administrative Hearings Establishment Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9204. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–523, ''Help America Vote Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9205. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–527, ''Anacostia Waterfront Corporation Act of 2004''; to the Committee on Governmental Affairs.

EC–9206. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–478, ''Board of Education Continuity and Transition Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9207. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–473, ''Mental Health Civil Commitment Extension Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–9208. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–477, ''Motorized Bicycle Responsibility Clarification Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9209. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–476, ''Office of Property Management Reform Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9210. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–475, ''Public Congestion and Venue Protection Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–9211. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–474, ''Presidential Elector Deadline Waiver Second Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9212. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–472, ''Tax Increment Financing Reauthorization Date Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9213. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–471, ''Walter Reed Property Tax Exemption Reconfirmation Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–9214. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–470, ''Juvenile Flotation Device Requirement Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9215. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–469, ''Eastern Market Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–9216. A communication from the Director, Office of Personnel Management, Division for Strategic Human Resources Management, transmitting, pursuant to law, the report of a rule entitled ''Locality-based Comparability Payments'' received on September 6, 2004; to the Committee on Governmental Affairs.

EC–9217. A communication from the Director, Office of General Counsel and Legal Policy, Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendment to Executive Branch Regulation Governing the Reporting Period for Incumbent Public Financial Disclosure Reports'' (RIN3209–AA00) received on September 9, 2004; to the Committee on Governmental Affairs.

EC–9218. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Office's Federal Financial Management Report; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals—2005.'' (Rept. No. 108–338).

By Ms. COLLINS, from the Committee on Governmental Affairs, without amendment:

S. 2639. A bill to reauthorize the Congressional Award Act (Rept. No. 108–339).

By Mr. BENNETT, from the Committee on Appropriations, without amendment:

S. 2803. An original bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2005, and for other purposes (Rept. No. 108–340).

By Mr. BURNS, from the Committee on Appropriations, without amendment:

S. 2804. An original bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2005, and for other purposes (Rept. No. 108–341).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER:

S. 2797. A bill to amend the Internal Revenue Code of 1986 to expand the deduction for college tuition expenses to include expenses for books; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. BINGAMAN, Mr. BUNNING, Mr. CAMPBELL, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. GRAHAM of South Carolina, and Mr. JEFFORDS):

S. 2798. A bill to provide for increased planning and funding for health promotion programs of the Department of Health and Human Services; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY:

S. 2799. A bill to amend title 18 of the United States Code to increase the penalties for smuggling goods into the United States; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 2800. A bill to amend title 36, United States Code, to grant a Federal charter to the Pulaski Cadets, Ltd; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 2801. A bill to amend the Social Security Act to enhance Social Security account number privacy protections, to prevent fraudulent misuse of the Social Security account number, and to otherwise enhance protection against identity theft, and for other purposes; to the Committee on Finance.

By Mr. DAYTON:

S. 2802. A bill to amend the Congerssional Budget and Impoundment Control Act of 1974 to limit the implementation, phase-in, or phase-out of revenue measures to 1 year; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. BENNETT:

S. 2803. An original bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2005, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. BURNS:

S. 2804. An original bill making appropriations for the Department of the Interior and

related agencies for the fiscal year ending September 30, 2005, and for other purposes; from the Committee on Appropriations; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRAIG:

S. Res. 424. A resolution designating October 2004 as ''Protecting Older Americans From Fraud Month''; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself and Mr. REID):

S. Res. 425. A resolution honoring former President William Jefferson Clinton on the occasion of his 58th birthday; considered and agreed to.

ADDITIONAL COSPONSORS

S. 373

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 373, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the medicare program.

S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

S. 540

At the request of Mr. INHOFE, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 540, a bill to authorize the presentation of gold medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th Century in recognition of the service of those Native Americans to the United States.

S. 606

At the request of Mr. GREGG, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 606, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 847

At the request of Mr. SMITH, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1428

At the request of Mr. MCCONNELL, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1428, a bill to prohibit civil liability actions from being brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for damages or injunctive relief for claims of injury resulting from a person's weight gain, obesity, or any health condition related to weight gain or obesity.

S. 1477

At the request of Mr. CORZINE, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1477, a bill to posthumously award a Congressional gold medal to Celia Cruz.

S. 1647

At the request of Mr. CAMPBELL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1647, a bill to amend title XVIII of the Social Security Act to provide for direct access to audiologists for medicare beneficiaries, and for other purposes.

S. 1707

At the request of Ms. STABENOW, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1707, a bill to amend title 39, United States Code, to provide for free mailing privileges for personal correspondence and certain parcels sent from within the United States to members of the Armed Forces serving on active duty abroad who are engaged in military operations involving armed conflict against a hostile foreign force, and for other purposes.

S. 2352

At the request of Mr. ENSIGN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 2352, a bill to prevent the slaughter of horses in and from the United States for human consumption by prohibiting the slaughter of horses for human consumption and by prohibiting the trade and transport of horseflesh and live horses intended for human consumption, and for other purposes.

S. 2365

At the request of Mr. COLEMAN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2365, a bill to ensure that the total amount of funds awarded to a State under part A of title I of the Elementary and Secondary Act of 1965 for fiscal year 2004 is not less than the total amount of funds awarded to the State under such part for fiscal year 2003.

S. 2647

At the request of Mr. HOLLINGS, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 2647, a bill to establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, to ensure effective interagency coordination, and for other purposes.

S. 2759

At the request of Mr. ROCKEFELLER, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2759, a bill to amend title XXI of the Social Security Act to modify the rules relating to the availability and method of redistribution of unexpended SCHIP allotments, and for other purposes.

S. 2764

At the request of Mr. DODD, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Indiana (Mr. LUGAR), the Senator from Indiana (Mr. BAYH), the Senator from Georgia (Mr. CHAMBLISS), the Senator from New York (Mrs. CLINTON) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 2764, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 2791

At the request of Mr. DASCHLE, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 2791, a bill to enhance the benefits and protections for members of the reserve components of the Armed Forces who are called or ordered to extend active duty, and for other purposes.

S. CON. RES. 136

At the request of Mr. CONRAD, the names of the Senator from New York (Mr. SCHUMER), the Senator from Washington (Mrs. MURRAY), the Senator from New Jersey (Mr. CORZINE), the Senator from South Dakota (Mr. JOHNSON), the Senator from California (Mrs. FEINSTEIN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 420

At the request of Mr. PRYOR, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Res. 420, a resolution recommending expenditures for an appropriate visitors center at Little Rock Central High School National Historic Site to commemorate the desegregation of Little Rock Central High School.

S. RES. 422

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. Res. 422, a resolution expressing the sense of the Senate that the President should designate the week beginning September 12, 2004, as ''National Historically Black Colleges and Universities Week''.

AMENDMENT NO. 3619

At the request of Mr. CORZINE, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 3619 proposed to H.R. 4567, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

AMENDMENT NO. 3624

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 3624 proposed to H.R. 4567, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

At the request of Mr. DASCHLE, his name was added as a cosponsor of amendment No. 3624 proposed to H.R. 4567, supra.

AMENDMENT NO. 3629

At the request of Mr. DAYTON, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 3629 proposed to H.R. 4567, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHUMER:

S. 2797. A bill to amend the Internal Revenue Code of 1986 to expand the deduction for college tuition expenses to include expenses for books; to the Committee on Finance.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Textbook Affordability Act of 2004''.

SEC. 2. DEDUCTION FOR COLLEGE BOOK EXPENSES.

(a) IN GENERAL.—Section 222(b)(2) of the Internal Revenue Code of 1986 (relating to applicable dollar limit) is amended—

(1) by inserting ''with respect to qualified tuition and related expenses described in subsection (d)(1)(A)(i)'' after ''amount'' in the matter preceding clause (i) in subparagraph (B),

(2) by redesignating subparagraph (C) as subparagraph (F), and

(3) by inserting after subparagraph (B) the following new subparagraphs:

''(C) BOOKS.—In the case of any taxable year beginning after 2003, the applicable dollar amount with respect to qualified tuition and related expenses described in subsection (d)(1)(A)(ii) shall be equal to $1,000 reduced (but not below zero) by the amount determined under subparagraph (D).

''(D) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

''(i) the excess of—

''(I) the taxpayer's adjusted gross income for such taxable year, over

''(II) $65,000 ($130,000 in the case of a joint return), bears to

''(ii) $15,000 ($30,000 in the case of a joint return).

''(E) INFLATION ADJUSTMENTS.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2004, both of the dollar amounts in subparagraph (D)(i)(II) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.''.

(b) EXPANSION OF RELATED EXPENSES.—Paragraph (1) of section 222(d) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended to read as follows:

''(1) QUALIFIED TUITION AND RELATED EXPENSES.—

''(A) IN GENERAL.—The term 'qualified tuition and related expenses'—

''(i) has the meaning given such term by section 25(f), and

''(ii) includes books (within the meaning of section 529(e)(3)(A)(i)).

''(B) SPECIAL RULE.—Such expenses shall be reduced in the same manner as under section 25A(g)(2).''.

(c) DEDUCTION FOR BOOKS MADE PERMANENT.—Section 222(e) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''This'' and inserting ''Except with respect to qualified tuition and related expenses described in subsection (d)(1)(A)(ii), this''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 2003.

By Mr. LUGAR (for himself, Mr. BINGAMAN, Mr. BUNNING, Mr. CAMPBELL, Ms. CANTWELL, Mrs, CLINTON, Mr. COCHRAN, Mr. GRAHAM of South Carolina, and Mr. JEFFORDS):

S. 2798. A bill to provide for increased planning and funding for health promotion programs of the Department of Health and Human Services; to the Committee on Health, Education, Labor, and Pensions.

Mr. LUGAR. Mr. President, I rise today to introduce the Health Promotion FIRST (Funding Integrated Research, Synthesis and Training) Act, legislation to provide the foundation for solid planning and a scientific base for health promotion.

Between one half and two-thirds of premature deaths in the United States and much of our health care costs are caused by just three risk factors: poor diet, physical inactivity, and tobacco. Recent news reports have highlighted the alarming increase in obesity across the Nation. In the last 10 years, obesity rates have increased by more than 60 percent among adults—with approximately 59 million adults considered obese today.

We also know that medical costs are directly related to lifestyle risk factors. The September 2000 issue of the American Journal of Health Promotion reported that approximately 25 percent of all employer medical costs are caused by lifestyle factors. Emerging research is showing the value may be closer to 50 percent today.

Medical care costs are reaching crisis levels. Some major employers are actively exploring discontinuing medical insurance coverage if costs are not controlled. The Federal Government has the same cost problems with its own employees, and the cost to Medicare of lifestyle-related diseases will only increase as Baby Boomers retire, and more and more beneficiaries are diagnosed with lifestyle-related illnesses.

An obvious first step to addressing our health and medical cost problems is to help people stay healthy.

The good news is that both the public and private sectors are starting to do more in the area of health prevention and health promotion. For instance, the Medicare Modernization Act of 2003 included several new prevention initiatives for Medicare beneficiaries.

Also in recent years Congress and the Administration have worked together to pass numerous pieces of legislation to establish grants to provide health services for improved nutrition, increased physical activity, and obesity prevention.

However, despite the success of many health promotion programs, there is a quality gap between the best programs and typical programs. This occurs because most professionals are not aware of the best practice methods. Furthermore, even the best programs reach a small percentage of the population and do poorly in creating lasting change.

The Health Promotion FIRST Act will build the foundation for a stable coordinated strategy to develop the basic and applied science of health promotion, synthesize research results and disseminate findings to researchers, practitioners and policy makers.

The bill directs the Department of Health and Human Services to develop strategic plans focusing on the following: how to develop the basic and applied science of health promotion; how to best utilize the authority and resources of the Department of Health and Human Services and other federal agencies to integrate health promotion concepts into health care and other elements of society; how to synthesize health promotion research into practical guidelines that can be easily disseminated and; how to foster a strong health workforce for health promotion activities.

Additional funding is also provided for the Centers for Disease Control and the National Institutes of Health to augment current activities related to health promotion research and dissemination.

We have made a good start, at the Federal level, in addressing the needs of health promotion. However, we need to go further. I believe this legislation will serve as a good basis for Congress and the administration to take the next step in developing health promotion programs for the next decade.

By Mr. GRASSLEY:

S. 2799. A bill to amend title 18 of the United States Code to increase the penalties for smuggling goods into the United States; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President. The safety and security of our Nation's borders has been on all of our minds lately. In the past, we have approached the problem in a stovepipe manner, focusing on what illegal items criminals were bringing across our borders. We need to begin thinking about these challenges differently.

Increasingly, smuggling organizations do not tie themselves to the movement of one particular commodity, but are specialists in smuggling merchandise of any type into the United States undetected. So long as there is profit to be made, smugglers don't really care what they smuggle. If we are going to encourage effective investigations and prosecutions of these smuggling organizations, we must ensure sufficient penalties to send a clear message that smuggling—whether it's heroin, pirated CDs, AK–47s, or look-a-like designer hand bags—is wrong, and will be severely punished.

Today I am introducing a bill that will do just that. It is very simple. Raise the penalty for smuggling contraband into the United States from a maximum of 5 years to a maximum of 20 years. This will give prosecutors and law enforcement agents a better tool to go after those who try and evade our customs, border, and port security efforts. If we are serious about securing our borders, then we need to be serious about punishing those who try and evade our controls. I urge my colleagues to join me in sponsoring this legislation.

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 2800. A bill to amend title 36, United States Code, to grant a Federal charter to the Pulaski Cadets, Ltd; to the Committee on the Judiciary.

Mr. LAUTENBERG. Mr. President, I rise today to introduce a bill to create a Federal charter for the Pulaski Cadets, Ltd. The purpose of this organization is to perpetuate the history of General Kazimierz Pulaski and military personnel of Polish origin with other nationals who served with the Continental Army of America in the Revolutionary War. Leaders of the Pulaski Cadets work hard devoting time and energy to the memory of a military hero, General Pulaski.

It is fitting that the Pulaski Cadets should be granted a Federal charter to show the appreciation and respect Congress maintains for this organization and the values espoused by its members. I am proud to stand before the Senate and proclaim my admiration for this group and the many soldiers and leaders of Polish origin who have made our country great and continue to protect Americans at home and abroad. Their contribution has been recognized by many in New Jersey, including Mayor Joe Vas, of Perth Amboy, who has been a key supporter in their quest for a charter.

I believe it is vital to study and emulate those leaders who came before us, particularly those who left such an impressive mark on our country's behalf. As such, I ask the United States Senate to support a Federal Charter for the Pulaski Cadets.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER FOR PULASKI CADETS, LTD.

Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

"CHAPTER 2501—[RESERVED]"; and

(2) by inserting the following:

"CHAPTER 2501—PULASKI CADETS, LTD.

''Sec.
''250101. Organization.
''250102. Purposes.
''250103. Membership.
''250104. Governing body.
''250105. Powers.
''250106. Exclusive right to name, seals, emblems, and badges.
''250107. Restrictions.
''250108. Duty to maintain tax-exempt status.
''250109. Principal office.
''250110. Records and inspection.
''250111. Service of process.
''250112. Liability for acts of officers and agents.
''250113. Annual report.

"§ 250101. Organization

''(a) FEDERAL CHARTER.—The Pulaski Cadets, Ltd. (in this chapter, the 'corporation'), incorporated in New York, is a federally chartered corporation.

''(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

"§ 250102. Purposes

''The purposes of the corporation are as provided in the articles of incorporation and include—

''(1) to perpetuate the history of General Kazimierz Pulaski and military personnel of Polish origin with other nationals who served with the Continental Army of America in the war of our Independence;

''(2) to promote Americanism, patriotism, and establish a military unit to encourage willingness to serve and defend these United States of America; and

''(3) to maintain a nonbiased military and social structure to assist and prepare all members eligible for basic military training for the purpose of enlisting in all branches and components of the United States Military Services.

"§ 250103. Membership

''Eligibility for membership in the corporation and the rights and privileges of membership are as provided in the bylaws.

"§ 250104. Governing body

''(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

''(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

"§ 250105. Powers

''The corporation shall have only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 250106. Exclusive right to name, seals, emblems, and badges

''The corporation has the exclusive right to use the names 'Pulaski Cadets, Ltd.' and 'Pulaski Cadets' and any seals, emblems, and badges relating thereto that the corporation adopts.

"§ 250107. Restrictions

''(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

''(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

''(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or member in an amount approved by the board of directors.

''(d) LOANS.—The corporation may not make any loan to a director, officer, or employee.

''(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

"§ 250108. Duty to maintain tax-exempt status

''The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

"§ 250109. Principal office

''The principal office of the corporation shall be in the State of New Jersey, or another place decided by the board of directors.

"§ 250110. Records and inspection

''(a) RECORDS.—The corporation shall keep—

''(1) correct and complete books and records of account;

''(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

''(3) at its principal office, a record of the names and addresses of its members entitled to vote.

''(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 250111. Service of process

''The corporation shall comply with the law on service of process of each State in

which it is incorporated and each State in which it carries on activities.

''§ 250112. Liability for acts of officers and agents

''The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

''§ 250113. Annual report

''The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report shall not be printed as a public document.''.

SEC. 2. CLERICAL AMENDMENT.

The table of chapters at the beginning of subtitle II of title 36, United States Code, is amended by striking the item relating to chapter 2501 and inserting the following new item:

''**2501. Pulaski Cadets, Ltd.** .....**250101**''.

By Mrs. FEINSTEIN:

S. 2801. A bill to amend the Social Security Act to enhance Social Security account number privacy protections, to prevent fraudulent misuse of the Social Security account number, and to otherwise enhance protection against identity theft, and for other purposes; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, I rise to introduce legislation to protect one of Americans' most valuable but vulnerable assets: Social Security Numbers. The bill I propose today is identical to legislation that is making progress in the House of Representatives. Just before recess, the House Ways and Means Committee passed the bill not only with bipartisan support, but with unanimous support. Even though this bill has differences from S. 228, which I proposed at the beginning of this Congress to help prevent the misuse of Social Security numbers, the issue is too important for me, or for any other Senator, to stand by and do nothing.

The legislation, which in the House is H.R. 2971, was authored by Representative CLAY SHAW, the Republican from Florida's 22nd Congressional District. Very briefly, the key provisions of the legislation will do the following: It will generally prohibit the Federal and State governments, and private businesses, from displaying, buying, and selling Social Security Numbers. However, realizing that there are certain instances where Social Security Numbers must be communicated, the bill makes exceptions for areas such as law enforcement, national security, vehicle registration, and certain limited forms of research.

The bill will also toughen the methods that the Social Security Administration uses to verify birth records, and that it uses to issue Social Security numbers to newborn infants.

Additionally, the legislation will prohibit companies from requiring consumers to provide their Social Security Numbers, and will treat any such requirement as a prohibited unfair trade practice.

The bill will also punish violators with fines and up to five years in prison, with up to 25 years for those who are involved in drug trafficking or terrorism.

The bill also allows other sections of Federal law to impose stronger restrictions, and calls for reports analyzing the process for issuing Social Security Numbers.

This legislation is necessary to help stop the epidemic of identity theft that has been plaguing America and its citizens.

According to a report that the Federal Trade Commission released in September, 2003, almost ten million people were victimized by identity theft in the previous year. This led to losses of over 47 billion dollars.

The damage is not merely monetary. According to the same FTC report, the average victim had to spend thirty hours that is, three-fourths of a standard work-week—to resolve the problems. Often, the entire process can drag out for years.

Perhaps worst of all, victims must confront the trauma that someone else has hijacked their very identity. According to the Identity Theft Resource Center, a non-profit group that operates in my home state of California: ''Each time you answer the telephone or go to the mailbox, you wonder what new bill will appear. The idea of dealing with yet another collection agency or a newly discovered credit card leaves you filled with dread, rage and helplessness. . . . Some feel like they are experiencing a form of 'post-traumatic stress disorder' for a short time.''

Theft of a Social Security number can be especially devastating, because that piece of information has become a de facto universal identifier in American society.

One recent book on privacy in the United States documents how far the use of Social Security Numbers has spread beyond its original purpose, when they were created in 1936, of tracking American workers' earnings and benefits. According to the book: ''The SSN began to be used for military personnel, legally admitted aliens, anyone receiving or applying for federal benefits, food stamps, school lunch program eligibility, draft registration, and federal loans. State and local governments, as well as private sector entities such as schools and banks, began to use SSNs as well—for drivers' licenses, birth certificates, blood donation, jury selection, worker's compensation, occupational licenses, and marriage licenses. '' (SOURCE: Daniel Solove and Marc Rotenberg, Information Privacy Law, Aspen Publishers, 2003, at page 447–48.)

Despite this widespread use of Social Security Numbers, according to the General Accounting Office, ''No single federal law regulates the overall use or restricts the disclosure of SSNs by governments.'' (SOURCE: Social Security Numbers: SSNs are Widely Used by Government and Could be Better Protected, 2002 (Report Number GAO–02–691T) at page 5). As a result, the use of Social Security Numbers is regulated by an inconsistent and insufficient patchwork of State and Federal laws, that often leaves the numbers in plain view of the whole world.

It isn't surprising, then, that the sale of Social Security Numbers is proceeding at a furious pace. According to the GAO in a report that it released earlier this year, ''Internet-based information resellers whose Web sites we accessed also obtain SSNs from their customers and scour public records and other publicly available information to provide the information to persons willing to pay a fee.'' (SOUCE: Social Security Numbers: Private Sector Entities Routinely Obtain and Use SSNs, and Laws Limit the Disclosure of this Information (2004, Report Number GAO–04–11), on Highlights Page).

I personally first became aware of the need for a law to restrict the sale and display of Social Security numbers about eight years ago, when one of my staff members sat me down and downloaded my own Social Security Number from the Internet in a matter of minutes. Congress has done shockingly little to protect Social Security Numbers since then.

Therefore, we badly need a uniform law such as the one that the GAO report anticipates. Year after year, I have advocated and proposed such legislation that would restrict the public display and use of Social Security Numbers.

In the 106th Congress, I introduced S. 2966.

In the 107th Congress, I introduced, S. 848 and S. 3100.

In the 108th Congress, I introduced S. 228.

None of these bills moved. Today, I stand before you yet again, to introduce a fifth bill to take steps that will make it more difficult for thieves to steal this precious resource. This is not a partisan issue—all of the bills that I introduced in the past were bipartisan. And so is this bill: in the House, as I mentioned, it was passed unanimously in the Ways and Means Committee, and also has 41 co-sponsors, including 16 Republicans and 25 Democrats. This issue does not concern Republican government or Democratic government; rather, this is an issue of good government.

Earlier this year, the President signed into law a bill that I helped to author, to increase punishment for those who steal the identities of others. But punishment is not enough. We need to stop identity theft from occurring in the first place.

We have only three weeks until the end of this Congress to enact this legislation to prevent such thefts by protecting Social Security Numbers. If we do not pass this legislation now, we will have to wait yet again to give basic protection to information that should have been under lock and key long ago. It is time for us to act. Thank you.

I ask unanimous consent, the text of the accompanying bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Social Security Number Privacy and Identity Theft Prevention Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TITLE I—PROVISIONS RELATING TO THE SOCIAL SECURITY ACCOUNT NUMBER IN THE PUBLIC AND PRIVATE SECTORS

SEC. 101. RESTRICTIONS ON THE SALE OR DISPLAY TO THE GENERAL PUBLIC OF SOCIAL SECURITY ACCOUNT NUMBERS BY GOVERNMENTAL AGENCIES.

(a) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following new clause:

''(x)(I) An executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or a political subdivision thereof or a trustee appointed in a case under title 11, United States Code (or person acting as an agent of such an agency or instrumentality or trustee) may not sell or display to the general public any social security account number if such number has been disclosed to such agency, instrumentality, trustee, or agent pursuant to the assertion by such an agency, instrumentality, trustee, or agent to any person that disclosure of such number is mandatory. Notwithstanding the preceding sentence, such number may be sold or displayed to the general public in accordance with the exceptions specified in subclauses (II), (III), (IV), (V), (VI), (VII), and (VIII) (and for no other purpose).

''(II) Notwithstanding subclause (I), a social security account number may be sold by an agency, instrumentality, trustee, or agent referred to in subclause (I) to the extent that such sale is specifically authorized by this Act.

''(III) Notwithstanding subclause (I), a social security account number may be sold by an agency, instrumentality, trustee, or agent referred to in subclause (I) to the extent that is necessary or appropriate for law enforcement or national security purposes, as determined under regulations which shall be issued as provided in subparagraph (I) of this paragraph.

''(IV) Notwithstanding subclause (I), a social security account number may be sold by an agency, instrumentality, trustee, or agent referred to in subclause (I) to the extent that such sale is required to comply with a tax law of the United States or of any State (or political subdivision thereof).

''(V) Notwithstanding subclause (I), a social security account number may be sold by a State department of motor vehicles as authorized under subsection (b) of section 2721 of title 18, United States Code, if such number is to be used pursuant to such sale solely for purposes permitted under paragraph (1), (6), or (9) of such subsection.

''(VI) Notwithstanding subclause (I), a social security account number may be sold or otherwise made available by an agency, instrumentality, trustee, or agent referred to in subclause (I) to a consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) for use or disclosure solely for permissible purposes described in section 604(a) of such Act (15 U.S.C. 1681b(a)).

''(VII) Notwithstanding subclause (I), a social security account number may be sold by an agency, instrumentality, trustee, or agent referred to in subclause (I) to the extent necessary for research (other than market research) conducted by any agency or instrumentality referred to in subclause (I) (or an agent of such an agency or instrumentality) for the purpose of advancing the public good, on the condition that the researcher provides adequate assurances that the social security account numbers will not be used to harass, target, or publicly reveal information concerning any identifiable individuals, that information about identifiable individuals obtained from the research will not be used to make decisions that directly affect the rights, benefits, or privileges of specific individuals, and that the researcher has in place appropriate safeguards to protect the privacy and confidentiality of any information about identifiable individuals, including procedures to ensure that the social security account numbers will be encrypted or otherwise appropriately secured from unauthorized disclosure. In the case of social security account numbers which constitute personally identifiable medical information, the Commissioner of Social Security, with respect to medical research referred to in the preceding sentence, and the Attorney General of the United States, with respect to any medical research not referred to in the preceding sentence but which is treated in regulations of the Attorney General issued pursuant to subclause (VIII), shall maintain ongoing consultation with the Office for Civil Rights of the Department of Health and Human Services to ensure that the sale or purchase of such social security account numbers is permitted only in compliance with existing Federal rules and regulations prescribed by the Secretary of Health and Human Services pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (110 Stat. 2033).

''(VIII) Notwithstanding subclause (I), a social security account number may be sold or displayed to the general public by an agency, instrumentality, trustee, or agent referred to in subclause (I) under such other circumstances as may be specified in regulations issued as provided in subparagraph (I) of this paragraph.

''(IX) This clause does not apply with respect to a social security account number of a deceased individual.

''(X) For purposes of this clause, the term 'sell' means, in connection with a social security account number, to accept an item of material value in exchange for such number.

''(XI) For purposes of this clause, the term 'display to the general public' shall have the meaning provided such term in section 208A(a)(3)(A). In any case in which an agency, instrumentality, trustee, or agent referred to in subclause (I) requires transmittal to such agency, instrumentality, trustee, or agent of an individual's social security account number by means of the Internet without reasonable provisions to ensure that such number is encrypted or otherwise appropriately secured from disclosure, any such transmittal of such number as so required shall be treated, for purposes of this clause, as a 'display to the general public' of such number by such agency, instrumentality, trustee, or agent for purposes of this clause.

''(XII) For purposes of this clause, the term social security account number includes any derivative of such number. Notwithstanding the preceding sentence, any expression, contained in or on any item sold or displayed to the general public, shall not be treated as a social security account number solely because such expression sets forth not more than the last 4 digits of such number if the remainder of such number cannot be determined based solely on such expression or any other matter presented in such material.

''(XIII) Nothing in this clause shall be construed to supersede, alter, or affect any restriction or limitation on the sale or display

to the general public of social security account numbers, provided in any Federal statute, regulation, order, or interpretation, if the restriction or limitation is greater than that provided under this clause, as determined under applicable regulations issued by the Commissioner of Social Security or by the Attorney General of the United States or another agency or instrumentality of the United States as provided in subparagraph (I) of this paragraph.''.

(b) EFFECTIVE DATE AND RELATED RULES.—

(1) IN GENERAL.—Initial final regulations prescribed to carry out the provisions of section 205(c)(2)(C)(x) of the Social Security Act (added by this section) shall be issued not later than the last date of the 18th calendar month following the date of the enactment of this Act. Such provisions shall take effect, with respect to matters governed by such regulations issued by the Commissioner of Social Security, or (pursuant to section 205(c)(2)(I) of such Act (added by section 102)) by the Attorney General of the United States or any other agency or instrumentality of the United States, 1 year after the date of the issuance of such regulations by the Commissioner, the Attorney General, or such other agency or instrumentality, respectively. Such amendment shall apply in the case of displays to the general public, as defined in section 208A(a)(3) of such Act (added by section 108), to such displays originally occurring after such 1-year period. Such provisions shall not apply with respect to any display of a record (containing a social security account number (or any derivative thereof)) generated prior to the close of such 1-year period.

(2) SUNSET OF EXCEPTION.—The last sentence of subclause (XI) of section 205(c)(2)(C)(x) of the Social Security Act (added by this section) shall cease to be effective with respect to sales, purchases, or displays to the general public occurring after 6 years after the 18th calendar month referred to in paragraph (1).

SEC. 102. REGULATORY AUTHORITY.

Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following new subparagraph:

''(I)(i) The Attorney General of the United States shall prescribe regulations to carry out the provisions of subclauses (III) and (VIII) of subparagraph (C)(x) of this paragraph, subparagraphs (A) and (B) of section 208A(b)(2), section 208A(b)(3)(B), and section 208A(c)(2). In issuing such regulations, the Attorney General shall consult with the Commissioner of Social Security, the Secretary of Health and Human Services, the Secretary of Homeland Security, the Secretary of the Treasury, the Federal Trade Commission, the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, the Securities and Exchange Commission, State attorneys general, and such representatives of the State insurance commissioners as may be designated by the National Association of Insurance Commissioners. Any agency or instrumentality of the United States may exercise the authority of the Attorney General under this subparagraph, with respect to matters otherwise subject to regulation by such agency or instrumentality, to the extent determined appropriate in regulations of the Attorney General.

''(ii) In issuing the regulations described in clause (i) pursuant to the provisions of subparagraph (C)(x)(III), paragraph (A) or (B) of section 208A(b)(2), or section 208A(c)(2) (relating to law enforcement and national security), the Attorney General may authorize the sale or purchase of Social Security account numbers only if the Attorney General determines that—

''(I) such sale or purchase would serve a compelling public interest that cannot reasonably be served through alternative measures, and

''(II) such sale or purchase will not pose an unreasonable risk of identity theft, or bodily, emotional, or financial harm to an individual (taking into account any restrictions and conditions that the Attorney General imposes on the sale, purchase, or disclosure).

''(iii) In issuing the regulations described in clause (i) pursuant to the provisions of subparagraph (C)(x)(VIII) of this paragraph or section 208A(b)(3)(B), the Attorney General may authorize the sale, purchase, or display to the general public of social security account numbers only after considering, among other relevant factors—

''(I) the associated cost or burden to the general public, businesses, commercial enterprises, non-profit organizations, and Federal, State, and local governments; and

''(II) the associated benefit to the general public, businesses, commercial enterprises, non-profit associations, and Federal, State, and local governments.

''(iv) If, after considering the factors in clause (iii), the Attorney General authorizes, in regulations referred to in clause (iii), the sale, purchase, or display to the general public of social security account numbers, the Attorney General shall impose restrictions and conditions on the sale, purchase, or display to the general public to the extent necessary—

''(I) to provide reasonable assurances that social security account numbers will not be used to commit or facilitate fraud, deceptions, or crime, and

''(II) to prevent an unreasonable risk of identity theft or bodily, emotional, or financial harm to any individual, considering the nature, likelihood, and severity of the anticipated harm that could result from the sale, purchase, or display to the general public of social security account numbers, together with the nature, likelihood, and extent of any benefits that could be realized.

''(v) In the issuance of regulations pursuant to this subparagraph, notice shall be provided as described in paragraphs (1), (2), and (3) of section 553(b) of title 5, United States Code, and opportunity to participate in the rule making shall be provided in accordance with section 553(c) of such title.

''(vi) Each agency and instrumentality exercising authority to issue regulations under this subparagraph shall consult and coordinate with the other such agencies and instrumentalities for the purposes of assuring, to the extent possible, that the regulations prescribed by each such agency or instrumentality are consistent and comparable, as appropriate, with the regulations prescribed by the other such agencies and instrumentalities. The Attorney General shall undertake to facilitate such consultation and coordination.

''(vii) For purposes of this subparagraph, the terms 'sell', 'purchase', and 'display to the general public' shall have the meanings provided such terms under subparagraph (C)(x) of this paragraph or under section 208A(a), as applicable.

''(viii) For purposes of this subparagraph, subparagraph (C)(x)(XI) shall apply.''.

SEC. 103. PROHIBITION OF DISPLAY OF SOCIAL SECURITY ACCOUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL AGENCIES.

(a) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by section 101) is amended further by adding at the end the following new clause:

''(xi) No executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or a political subdivision thereof or trustee appointed in a case under title 11, United States Code (or person acting as an agent of such an agency or instrumentality or trustee) may include the social security account number of any individual (or any derivative of such number) on any check issued for any payment by the Federal Government, any State or political subdivision thereof, or any agency or instrumentality thereof, or such trustee or on any document attached to or accompanying such a check.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to checks (and documents attached to or accompanying such checks) issued after 1 year after the date of the enactment of this Act.

SEC. 104. PROHIBITION OF THE DISPLAY OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATIONS.

(a) IN GENERAL.—Section 205(c)(2)(C)(vi) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

(1) by inserting ''(I)'' after ''(vi)''; and

(2) by adding at the end the following new subclause:

''(II) Any State or political subdivision thereof (and any person acting as an agent of such an agency or instrumentality), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, may not display a social security account number issued by the Commissioner of Social Security (or any derivative of such number) on any driver's license or motor vehicle registration or any other document issued by such State or political subdivision to an individual for purposes of identification of such individual or include on any such license, registration, or other document a magnetic strip, bar code, or other means of communication which conveys such number (or derivative thereof).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to licenses, registrations, and other documents issued or reissued after 1 year after the date of the enactment of this Act.

SEC. 105. PROHIBITION OF THE DISPLAY OF PERSONAL IDENTIFICATION NUMBERS ON GOVERNMENT EMPLOYEE IDENTIFICATION CARDS OR TAGS.

(a) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the preceding provisions of this title) is amended further by adding at the end the following new clause:

''(xii) No executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof, and no other person offering benefits in connection with an employee benefit plan maintained by such agency or instrumentality or acting as an agent of such agency or instrumentality, may display a social security account number (or any derivative thereof) on any card or tag that is commonly provided to employees of such agency or instrumentality (or to their family members) for purposes of identification or include on such card or tag a magnetic strip, bar code, or other means of communication which conveys such number.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to cards or tags issued after 1 year after the date of the enactment of this Act.

SEC. 106. PROHIBITION OF INMATE ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS.

(a) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the preceding provisions of this title) is amended further by adding at the end the following new clause:

''(xiii) No executive, legislative, or judicial agency or instrumentality of the Federal

Government or of a State or political subdivision thereof (or person acting as an agent of such an agency or instrumentality) may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the social security account numbers of other individuals. For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply with respect to employment of prisoners, or entry into contract for the use or employment of prisoners, on or after the date of the enactment of this Act.

(2) TREATMENT OF CURRENT ARRANGEMENTS.—In the case of—

(A) prisoners employed as described in clause (xiii) of section 205(c)(2)(C) of the Social Security Act (as added by this section) on the date of the enactment of this Act, and

(B) contracts described in such clause in effect on such date,

the amendment made by this section shall take effect 90 days after the date of the enactment of this Act.

SEC. 107. MEASURES TO PRECLUDE UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY ACCOUNT NUMBERS AND PROTECT THE CONFIDENTIALITY OF SUCH NUMBERS.

(a) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the preceding provisions of this title) is amended further by adding at the end the following new clause:

''(xiv) Except as otherwise provided in this paragraph, in the case of any executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof and any trustee appointed in a case under title 11, United States Code (and any agent of such agency, instrumentality, or trustee) having in its possession an individual's social security account number—

''(I) no officer or employee thereof shall have access to such number for any purpose other than the effective administration of the statutory provisions governing its functions,

''(II) such agency, instrumentality, trustee, or agent shall restrict, to the satisfaction of the Commissioner of Social Security, access to social security account numbers obtained thereby to officers and employees thereof whose duties or responsibilities require access for the administration or enforcement of such provisions, and

''(III) such agency, instrumentality, trustee, or agent shall provide such other safeguards as the Commissioner of Social Security determines to be necessary or appropriate to preclude unauthorized access to the social security account number and to otherwise protect the confidentiality of such number.

For purposes of this clause the term social security account number includes any derivative thereof. ''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 1 year after the date of the enactment of this Act.

SEC. 108. PROHIBITION OF THE SALE, PURCHASE, AND DISPLAY TO THE GENERAL PUBLIC OF THE SOCIAL SECURITY ACCOUNT NUMBER IN THE PRIVATE SECTOR.

(a) IN GENERAL.—Title II of the Social Security Act is amended by inserting after section 208 (42 U.S.C. 408) the following new section:''Prohibition of the sale, purchase, and display to the general public of the Social Security account number in the private sector

''SEC. 208A. (a) DEFINITIONS.—For purposes of this section:

''(1) PERSON.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'person' means any individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

''(B) GOVERNMENTAL ENTITIES.—Such term does not include a governmental entity. Nothing in this subparagraph shall be construed to authorize, in connection with a governmental entity, an act or practice otherwise prohibited under this section or section 205(c)(2)(C).

''(2) SELLING AND PURCHASING.—

''(A) IN GENERAL.—Subject to subparagraph (B)—

''(i) SELL.—The term 'sell' in connection with a social security account number means to obtain, directly or indirectly, anything of value in exchange for such number.

''(ii) PURCHASE.—The term 'purchase' in connection with a social security account number means to provide, directly or indirectly, anything of value in exchange for such number.

''(B) EXCEPTIONS.—The terms 'sell' and 'purchase' in connection with a social security account number do not include the submission of such number as part of—

''(i) the process for applying for any type of Government benefits or programs (such as grants or loans or welfare or other public assistance programs),

''(ii) the administration of, or provision of benefits under, an employee benefit plan, or

''(iii) the sale, lease, merger, transfer, or exchange of a trade or business.

''(3) DISPLAY TO THE GENERAL PUBLIC.—

''(A) IN GENERAL.—The term 'display to the general public' means, in connection with a social security account number, to intentionally place such number in a viewable manner on an Internet site that is available to the general public or to make such number available in any other manner intended to provide access to such number by the general public.

''(B) INTERNET TRANSMISSIONS.—In any case in which a person requires, as a condition of doing business with such person, transmittal to such person of an individual's social security account number by means of the Internet without reasonable provisions to ensure that such number is encrypted or otherwise secured from disclosure, any such transmittal of such number as so required shall be treated as a 'display to the general public' of such number by such person.

''(4) SOCIAL SECURITY ACCOUNT NUMBER.—The term 'social security account number' has the meaning given such term in section 208(c), except that such term includes any derivative of such number. Notwithstanding the preceding sentence, any expression, contained in or on any item sold or displayed to the general public, shall not be treated as a social security account number solely because such expression sets forth not more than the last 4 digits of such number, if the remainder of such number cannot be determined based solely on such expression or any other matter presented in or on such item.

''(b) PROHIBITION OF SALE, PURCHASE, AND DISPLAY TO THE GENERAL PUBLIC.—(1) Except as provided in paragraph (2), it shall be unlawful for any person to—

''(A) sell or purchase a social security account number or display to the general public a social security account number, or

''(B) obtain or use any individual's social security account number for the purpose of locating or identifying such individual with the intent to physically injure or harm such individual or using the identity of such individual for any illegal purpose.

''(2) Notwithstanding paragraph (1), and subject to paragraph (3), a social security account number may be sold or purchased by any person to the extent provided in this subsection (and for no other purpose) as follows:

''(A) to the extent necessary for law enforcement, including (but not limited to) the enforcement of a child support obligation, as determined under regulations issued as provided in section 205(c)(2)(I);

''(B) to the extent necessary for national security purposes, as determined under regulations issued as provided in section 205(c)(2)(I);

''(C) to the extent necessary for public health purposes;

''(D) to the extent necessary in emergency situations to protect the health or safety of 1 or more individuals;

''(E) to the extent that the sale or purchase is required to comply with a tax law of the United States or of any State (or political subdivision thereof);

''(F) to the extent that the sale or purchase is to or by a consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) for use or disclosure solely for permissible purposes described in section 604(a) of such Act (15 U.S.C. 1681b(a)); and

''(G) to the extent necessary for research (other than market research) conducted by an agency or instrumentality of the United States or of a State or political subdivision thereof (or an agent of such an agency or instrumentality) for the purpose of advancing the public good, on the condition that the researcher provides adequate assurances that—

''(i) the social security account numbers will not be used to harass, target, or publicly reveal information concerning any identifiable individuals;

''(ii) information about identifiable individuals obtained from the research will not be used to make decisions that directly affect the rights, benefits, or privileges of specific individuals; and

''(iii) the researcher has in place appropriate safeguards to protect the privacy and confidentiality of any information about identifiable individuals, including procedures to ensure that the social security account numbers will be encrypted or otherwise appropriately secured from unauthorized disclosure.

''(3) Notwithstanding paragraph (1), a social security account number assigned to an individual may be sold, purchased, or displayed to the general public by any person—

''(A) to the extent consistent with such individual's voluntary and affirmative written consent to the sale, purchase, or display of the social security account number, but only if—

''(i) the terms of the consent and the right to refuse consent are presented to the individual in a clear, conspicuous, and understandable manner,

''(ii) the individual is placed under no obligation to provide consent to any such sale, purchase, or display, and

''(iii) the terms of the consent authorize the individual to limit the sale, purchase, or display to purposes directly associated with the transaction with respect to which the consent is sought, and

''(B) under such circumstances as may be deemed appropriate in regulations issued as provided under section 205(c)(2)(I).

''(4) In the case of social security account numbers which constitute personally identifiable medical information—

''(A) the Commissioner of Social Security, with respect to medical research referred to in paragraph (3)(A), and

''(B) the Attorney General of the United States, with respect to any medical research not referred to in paragraph (3)(A) but which

is treated in regulations of the Attorney General issued pursuant to paragraph (3)(B), shall maintain ongoing consultation with the Office for Civil Rights of the Department of Health and Human Services to ensure that the sale or purchase of such social security account numbers is permitted only in compliance with existing Federal rules and regulations prescribed by the Secretary of Health and Human Services pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (110 Stat. 2033).

''(c) PROHIBITION OF UNAUTHORIZED DISCLOSURE TO GOVERNMENT AGENCIES OR INSTRUMENTALITIES.—(1) It shall be unlawful for any person to communicate by any means to any agency or instrumentality of the United States or of any State or political subdivision thereof the social security account number of any individual other than such person without the written permission of such individual, unless the number was requested by the agency or instrumentality. In the case of an individual who is legally incompetent, permission provided by the individual's legal representatives shall be deemed to be permission provided by such individual.

''(2) Paragraph (1) shall not apply to the extent necessary—

''(A) for law enforcement, including (but not limited to) the enforcement of a child support obligation, or

''(B) for national security purposes,

as determined under regulations issued as provided under section 205(c)(2)(I).

''(d) PROHIBITION OF THE DISPLAYS ON CARDS OR TAGS REQUIRED FOR ACCESS TO GOODS, SERVICES, OR BENEFITS.—No person may display a social security account number on any card or tag issued to any other person for the purpose of providing such other person access to any goods, services, or benefits or include on such card or tag a magnetic strip, bar code, or other means of communication which conveys such number.

''(e) PROHIBITION OF THE DISPLAYS ON EMPLOYEE IDENTIFICATION CARDS OR TAGS.—No person that is an employer, and no other person offering benefits in connection with an employee benefit plan maintained by such employer or acting as an agent of such employer, may display a social security account number on any card or tag that is commonly provided to employees of such employer (or to their family members) for purposes of identification or include on such card or tag a magnetic strip, bar code, or other means of communication which conveys such number.

''(f) MEASURES TO PRECLUDE UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY ACCOUNT NUMBERS AND PROTECT THE CONFIDENTIALITY OF SUCH NUMBERS.—Subject to the preceding provisions of this section, any person having in such person's records the social security account number of any individual other than such person shall, to the extent that such records are maintained for the conduct of such person's trade or business—

''(1) ensure that no officer or employee thereof has access to such number for any purpose other than as necessary for the conduct of such person's trade or business,

''(2) restrict, in accordance with regulations of the Commissioner, access to social security account numbers obtained thereby to officers and employees thereof whose duties or responsibilities require access for the conduct of such person's trade or business, and

''(3) provide such safeguards as may be specified, in regulations of the Commissioner, to be necessary or appropriate to preclude unauthorized access to the social security account number and to otherwise protect the confidentiality of such number.

''(g) DECEASED INDIVIDUALS.—This section does not apply with respect to the social security account number of a deceased individual.

''(h) CRIMINAL PENALTY.—Any person who violates this section shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

''(i) APPLICABILITY OF OTHER PROTECTIONS.—Nothing in this section shall be construed to supersede, alter, or affect any restriction or limitation on the sale, purchase, display to the general public, or other disclosure of social security account numbers, provided in any Federal statute, regulation, order, or interpretation, if the restriction or limitation is greater than that provided under this section, as determined under applicable regulations issued by the Commissioner of Social Security or by the Attorney General of the United States or another agency or instrumentality of the United States as provided in section 205(c)(2)(I).''.

(b) EFFECTIVE DATE AND RELATED RULES.—

(1) IN GENERAL.—Initial final regulations prescribed to carry out the provisions of section 208A of the Social Security Act (added by this section) shall be issued not later than the last date of the 18th calendar month following the date of the enactment of this Act. Such provisions shall take effect, with respect to matters governed by such regulations issued by the Commissioner of Social Security, or (pursuant to section 205(c)(2)(I) of such Act (added by section 102)) by the Attorney General of the United States or any other agency or instrumentality of the United States, 1 year after the date of the issuance of such regulations by the Commissioner, the Attorney General, or such other agency or instrumentality, respectively. Section 208A(b) of such Act shall apply in the case of displays to the general public (as defined in section 208A(a)(3) of such Act) to such displays to the general public originally occurring after such 1-year period. Such provisions shall not apply with respect to any such display to the general public of a record (containing a social security account number (or any derivative thereof)) generated prior to the close of such 1-year period.

(2) SUNSET OF EXCEPTION.—The last sentence of section 208A(a)(4) of the Social Security Act (added by this section) shall cease to be effective with respect to sales, purchases, or displays to the general public occurring after 6 years after the 18th calendar month referred to in paragraph (1).

SEC. 109. CONFIDENTIAL TREATMENT OF CREDIT HEADER INFORMATION.

(a) IN GENERAL.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following new subsection:

''(q) CONFIDENTIAL TREATMENT OF CREDIT HEADER INFORMATION.—Information regarding the social security account number of the consumer, or any derivative thereof, may not be furnished to any person by a consumer reporting agency other than in a full consumer report furnished in accordance with section 604 and other requirements of this title.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 90 days after the date of the enactment of this Act.

SEC. 110. REFUSAL TO DO BUSINESS WITHOUT RECEIPT OF SOCIAL SECURITY ACCOUNT NUMBER CONSIDERED UNFAIR OR DECEPTIVE ACT OR PRACTICE.

(a) IN GENERAL.—Any person who refuses to do business with an individual because the individual will not consent to the receipt by such person of the social security account number of such individual shall be considered to have committed an unfair or deceptive act or practice in violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Action may be taken under such section 5 against such a person.

(b) EXCEPTION.—Subsection (a) shall not apply to any person in any case in which such person is expressly required under Federal law, in connection with doing business with an individual, to submit to the Federal Government such individual's social security account number.

(c) EFFECTIVE DATE.—The preceding provisions of this section shall apply with respect to acts or practices committed after 180 days after the date of the enactment of this Act.

TITLE II—MEASURES TO ENSURE THE INTEGRITY OF APPLICATIONS FOR SOCIAL SECURITY ACCOUNT NUMBERS AND REPLACEMENT SOCIAL SECURITY CARDS

SEC. 201. INDEPENDENT VERIFICATION OF BIRTH RECORDS PROVIDED IN SUPPORT OF APPLICATIONS FOR SOCIAL SECURITY ACCOUNT NUMBERS.

(a) APPLICATIONS FOR SOCIAL SECURITY ACCOUNT NUMBERS.—Section 205(c)(2)(B)(ii) of the Social Security Act (42 U.S.C. 405(c)(2)(B)(ii)) is amended—

(1) by inserting ''(I)'' after ''(ii)''; and

(2) by adding at the end the following new subclause:

''(II) With respect to an application for a social security account number for an individual, other than for purposes of enumeration at birth, the Commissioner shall require independent verification of any birth record provided by the applicant in support of the application. The Commissioner may provide by regulation for reasonable exceptions from the requirement for independent verification under this subclause in any case in which the Commissioner determines there is minimal opportunity for fraud.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to applications filed after 270 days after the date of the enactment of this Act.

(c) STUDY REGARDING APPLICATIONS FOR REPLACEMENT SOCIAL SECURITY CARDS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake a study to test the feasibility and cost effectiveness of verifying all identification documents submitted by an applicant for a replacement social security card. As part of such study, the Commissioner shall determine the feasibility of, and the costs associated with, the development of appropriate electronic processes for third party verification of any such identification documents which are issued by agencies and instrumentalities of the Federal Government and of the States (and political subdivisions thereof).

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commissioner shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study undertaken under paragraph (1). Such report shall contain such recommendations for legislative changes as the Commissioner considers necessary to implement needed improvements in the process for verifying identification documents submitted by applicants for replacement social security cards.

SEC. 202. ENUMERATION AT BIRTH.

(a) IMPROVEMENT OF APPLICATION PROCESS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake to make improvements to the enumeration at birth program for the issuance of social security account numbers

to newborns. Such improvements shall be designed to prevent—

(A) the assignment of social security account numbers to unnamed children;

(B) the issuance of more than 1 social security account number to the same child; and

(C) other opportunities for fraudulently obtaining a social security account number.

(2) REPORT TO THE CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall transmit to each House of the Congress a report specifying in detail the extent to which the improvements required under paragraph (1) have been made.

(b) STUDY REGARDING PROCESS FOR ENUMERATION AT BIRTH.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake a study to determine the most efficient options for ensuring the integrity of the process for enumeration at birth. Such study shall include an examination of available methods for reconciling hospital birth records with birth registrations submitted to agencies of States and political subdivisions thereof and with information provided to the Commissioner as part of the process for enumeration at birth.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commissioner shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study undertaken under paragraph (1). Such report shall contain such recommendations for legislative changes as the Commissioner considers necessary to implement needed improvements in the process for enumeration at birth.

SEC. 203. STUDY RELATING TO USE OF PHOTOGRAPHIC IDENTIFICATION IN CONNECTION WITH APPLICATIONS FOR BENEFITS, SOCIAL SECURITY ACCOUNT NUMBERS, AND SOCIAL SECURITY CARDS.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake a study to—

(1) determine the best method of requiring and obtaining photographic identification of applicants for old-age, survivors, and disability insurance benefits under title II of the Social Security Act, for a social security account number, or for a replacement social security card, and of providing for reasonable exceptions to any requirement for photographic identification of such applicants that may be necessary to promote efficient and effective administration of this title, and

(2) evaluate the benefits and costs of instituting such a requirement for photographic identification, including the degree to which the security and integrity of the old-age, survivors, and disability insurance program would be enhanced.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commissioner shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study undertaken under paragraph (1). Such report shall contain such recommendations for legislative changes as the Commissioner considers necessary relating to requirements for photographic identification of applicants described in subsection (a).

SEC. 204. RESTRICTIONS ON ISSUANCE OF MULTIPLE REPLACEMENT SOCIAL SECURITY CARDS.

(a) IN GENERAL.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended by adding at the end the following new sentence: ''The Commissioner shall restrict the issuance of multiple replacement social security cards to any individual to 3 per year and to 10 for the life of the individual, except in any case in which the Commissioner determines there is minimal opportunity for fraud.''.

(b) REGULATIONS AND EFFECTIVE DATE.—The Commissioner of Social Security shall issue regulations under the amendment made by subsection (a) not later than 1 year after the date of the enactment of this Act. Systems controls developed by the Commissioner pursuant to such amendment shall take effect upon the earlier of the issuance of such regulations or the end of such 1-year period.

SEC. 205. STUDY RELATING TO MODIFICATION OF THE SOCIAL SECURITY ACCOUNT NUMBERING SYSTEM TO SHOW WORK AUTHORIZATION STATUS.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall undertake a study to examine the best method of modifying the social security account number assigned to individuals who—

(1) are not citizens of the United States,

(2) have not been admitted for permanent residence, and

(3) are not authorized by the Secretary of Homeland Security to work in the United States, or are so authorized subject to one or more restrictions,

so as to include an indication of such lack of authorization to work or such restrictions on such an authorization.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study undertaken under this section. Such report shall include the Commissioner's recommendations of feasible options for modifying the social security account number in the manner described in subsection (a).

TITLE III—ENFORCEMENT

SEC. 301. NEW CRIMINAL PENALTIES FOR MISUSE OF SOCIAL SECURITY ACCOUNT NUMBERS.

(a) IN GENERAL.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) in paragraph (7), by adding after subparagraph (C) the following new subparagraph:

''(D) with intent to deceive, discloses, sells, or transfers his own social security account number, assigned to him by the Commissioner of Social Security (in the exercise of the Commissioner's authority under section 205(c)(2) to establish and maintain records), to any person; or'';

(2) in paragraph (8), by adding ''or'' at the end; and

(3) by inserting after paragraph (8) the following new paragraphs:

''(9) without lawful authority, offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number that purports to be a social security account number; or

''(10) being an officer or employee of any executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof (or a person acting as an agent of such an agency or instrumentality), willfully acts or fails to act so as to cause a violation of section 205(c)(2)(C)(xi); or

''(11) being an officer or employee of any executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof (or a person acting as an agent of such an agency or instrumentality) in possession of any individual's social security account number (or an officer or employee thereof or a person acting as an agent thereof), willfully acts or fails to act so as to cause a violation of clause (vi)(II), (x), (xi), (xii), (xiii), or (xiv) of section 205(c)(2)(C); or

''(12) being a trustee appointed in a case under title 11, United States Code (or an officer or employee thereof or a person acting as an agent thereof), willfully acts or fails to act so as to cause a violation of clause (x), (xi), or (xiv) of section 205(c)(2)(C);''.

(b) EFFECTIVE DATES.—Paragraphs (7)(D) and (9) of section 208(a) of the Social Security Act (added by subsection (a)(2)) shall apply with respect to each violation occurring after the date of the enactment of this Act. Paragraphs (10), (11), and (12) of section 208(a) of such Act (added by subsection (a)(2)) shall apply with respect to each violation occurring on or after the effective date applicable with respect to such violation under title I.

SEC. 302. EXTENSION OF CIVIL MONETARY PENALTY AUTHORITY.

(a) APPLICATION OF CIVIL MONEY PENALTIES TO ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by designating the last sentence of paragraph (1) as a new paragraph (2), appearing after and below paragraph (1); and

(3) by inserting after paragraph (2) (as designated under paragraph (2) of this subsection) the following:

''(3) Any person (including an organization, agency, or other entity) who—

''(A) uses a social security account number that such person knows or should know has been assigned by the Commissioner of Social Security (in an exercise of authority under section 205(c)(2) to establish and maintain records) on the basis of false information furnished to the Commissioner by any person;

''(B) falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to any individual, when such person knows or should know that such number is not the social security account number assigned by the Commissioner to such individual;

''(C) knowingly alters a social security card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

''(D) knowingly buys or sells a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to buy or sell it;

''(E) counterfeits a social security card, or possesses a counterfeit social security card with intent to buy or sell it;

''(F) discloses, uses, compels the disclosure of, or knowingly sells or purchases the social security account number of any person in violation of the laws of the United States;

''(G) with intent to deceive the Commissioner of Social Security as to such person's true identity (or the true identity of any other person), furnishes or causes to be furnished false information to the Commissioner with respect to any information required by the Commissioner in connection with the establishment and maintenance of the records provided for in section 205(c)(2);

''(H) without lawful authority, offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number which purports to be a social security account number;

''(I) with intent to deceive, discloses, sells, or transfers his own social security account number, assigned to him by the Commissioner of Social Security under section 205(c)(2)(B), to any person;

''(J) being an officer or employee of any executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof (or a person acting as an agent of such an agency or instrumentality), in possession of any individual's social security account number, willfully acts or fails to act so as to cause a violation of clause (vi)(II), (x), (xi), (xii), (xiii), or (xiv) of section 205(c)(2)(C);

''(K) being a trustee appointed in a case under title 11, United States Code (or an officer or employee thereof or a person acting as an agent thereof), willfully acts or fails to act so as to cause a violation of clause (x), (xi), or (xiv) of section 205(c)(2)(C);

''(L) violates section 208A (relating to prohibition of the sale, purchase, or display of the social security account number in the private sector); or

''(M) violates section 208B (relating to fraud by social security administration employees);

shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each violation. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such violation, of not more than twice the amount of any benefits or payments paid as a result of such violation.''.

(b) EFFECTIVE DATES.—The amendments made by this section shall apply with respect to violations committed after the date of the enactment of this Act, except that subparagraphs (J), (K), (L), and (M) of section 1129(a)(3) of the Social Security Act (added by subsection (a)) shall apply with respect to violations occurring on or after the effective date provided in connection with such violations under title I.

SEC. 303. CRIMINAL PENALTIES FOR EMPLOYEES OF THE SOCIAL SECURITY ADMINISTRATION WHO KNOWINGLY AND FRAUDULENTLY ISSUE SOCIAL SECURITY CARDS OR SOCIAL SECURITY ACCOUNT NUMBERS.

(a) IN GENERAL.—Title II of the Social Security Act (as amended by the preceding provisions of this Act) is amended further by inserting after section 208A the following new section:

''FRAUD BY SOCIAL SECURITY ADMINISTRATION EMPLOYEES

''SEC. 208B. (a) Whoever is an employee of the Social Security Administration and knowingly and fraudulently sells or transfers one or more social security account numbers or social security cards shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, imprisoned as provided in subsection (b), or both.

''(b) Imprisonment for a violation described in subsection (a) shall be for—

''(1) not less than 1 year and up to 5 years, in the case of an employee of the Social Security Administration who has fraudulently sold or transferred not more than 50 social security account numbers or social security cards,

''(2) not less than 5 years and up to 10 years, in the case of an employee of the Social Security Administration who has fraudulently sold or transferred more than 50, but not more than 100, social security account numbers or social security cards, or

''(3) not less than 10 years and up to 20 years, in the case of an employee of the Social Security Administration who has fraudulently sold or transferred more than 100 social security account numbers or social security cards.

''(c) For purposes of this section—

''(1) The term 'social security employee' means any State employee of a State disability determination service, any officer, employee, or contractor of the Social Security Administration, any employee of such a contractor, or any volunteer providing services or assistance in any facility of the Social Security Administration.

''(2) The term 'social security account number' means a social security account number assigned by the Commissioner of Social Security under section 205(c)(2)(B) or another number that has not been so assigned but is purported to have been so assigned.

''(3) The term 'social security card' means a card issued by the Commissioner of Social Security under section 205(c)(2)(G), another card which has not been so issued but is purported to have been so issued, and banknote paper of the type described in section 205(c)(2)(G) prepared for the entry of social security account numbers, whether fully completed or not.

''(d) Any employee of the Social Security Administration who attempts or conspires to commit any violation of this section shall be subject to the same penalties as those prescribed for the violation the commission of which was the object of the attempt or conspiracy.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring on or after the date of the enactment of this Act.

SEC. 304. ENHANCED PENALTIES IN CASES OF TERRORISM, DRUG TRAFFICKING, CRIMES OF VIOLENCE, OR PRIOR OFFENSES.

(a) AMENDMENTS TO TITLE II.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) in subsection (a), by striking ''shall be fined'' and all that follows and inserting the following: ''shall be fined, imprisoned, or both, as provided in subsection (b).'';

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(3) by inserting after subsection (a) the following new subsection:

''(b) A person convicted of a violation described in subsection (a) shall be—

''(1) fined under title 18, United States Code, or imprisoned for not more than 5 years, or both, in the case of an initial violation, subject to paragraphs (3) and (4),

''(2) fined under title 18, United States Code, or imprisoned for not more than 10 years, or both, in the case of a violation which occurs after a prior conviction for another offense under subsection (a) becomes final, subject to paragraphs (3) and (4),

''(3) fined under title 18, United States Code, or imprisoned for not more than 20 years, in the case of a violation which is committed to facilitate a drug trafficking crime (as defined in section 929(a)(2) of title 18, United States Code) or in connection with a crime of violence (as defined in section 924(c)(3) of title 18, United States Code), subject to paragraph (4), and

''(4) fined under title 18, United States Code, or imprisoned for not more than 25 years, in the case of a violation which is committed to facilitate an act of international or domestic terrorism (as defined in paragraphs (1) and (5), respectively, of section 2331 of title 18, United States Code).''; and

(4) in subsection (c) (as redesignated by paragraph (2))—

(A) by striking the first sentence; and

(B) in the second sentence, by striking ''any violation described in the preceding sentence, including a first such violation'' and inserting ''a violation of any of the provisions of this section committed by any person or other entity in the role of such person or entity as, or in applying to become, a certified payee under section 205(j) on behalf of another individual (other than such person's spouse)''.

(b) AMENDMENTS TO TITLE VIII.—Section 811 of such Act (42 U.S.C. 1011) is amended—

(1) in subsection (a), by striking ''shall be fined'' and all that follows and inserting ''shall be fined, imprisoned, or both, as provided in subsection (b).'';

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection:

''(b) PUNISHMENT.—A person convicted of a violation described in subsection (a) shall be—

''(1) fined under title 18, United States Code, or imprisoned for not more than 5 years, or both, in the case of an initial violation, subject to paragraphs (3) and (4),

''(2) fined under title 18, United States Code, or imprisoned for not more than 10 years, or both, in the case of a violation which occurs after a prior conviction for another offense under subsection (a) becomes final, subject to paragraphs (3) and (4),

''(3) fined under title 18, United States Code, or imprisoned for not more than 20 years, in the case of a violation which is committed to facilitate a drug trafficking crime (as defined in section 929(a)(2) of title 18, United States Code) or in connection with a crime of violence (as defined in section 924(c)(3) of title 18, United States Code), subject to paragraph (4), and

''(4) fined under title 18, United States Code, or imprisoned for not more than 25 years, in the case of a violation which is committed to facilitate an act of international or domestic terrorism (as defined in paragraphs (1) and (5), respectively, of section 2331 of title 18, United States Code).''.

(c) AMENDMENTS TO TITLE XVI.—Section 1632 of such Act (42 U.S.C. 1383a) is amended—

(1) in subsection (a), by striking ''shall be fined'' and all that follows and inserting ''shall be fined, imprisoned, or both, as provided in subsection (b).'';

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following new subsection:

''(b) A person convicted of a violation described in subsection (a) shall be—

''(1) fined under title 18, United States Code, or imprisoned for not more than 5 years, or both, in the case of an initial violation, subject to paragraphs (3) and (4),

''(2) fined under title 18, United States Code, or imprisoned for not more than 10 years, or both, in the case of a violation which occurs after a prior conviction for another offense under subsection (a) becomes final, subject to paragraphs (3) and (4),

''(3) fined under title 18, United States Code, or imprisoned for not more than 20 years, in the case of a violation which is committed to facilitate a drug trafficking crime (as defined in section 929(a)(2) of title 18, United States Code) or in connection with a crime of violence (as defined in section 924(c)(3) of title 18, United States Code), subject to paragraph (4), and

''(4) fined under title 18, United States Code, or imprisoned for not more than 25 years, in the case of a violation which is committed to facilitate an act of international or domestic terrorism (as defined in paragraphs (1) and (5), respectively, of section 2331 of title 18, United States Code).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect

to violations occurring after the date of the enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 424—DESIGNATING OCTOBER 2004 AS ''PROTECTING OLDER AMERICANS FROM FRAUD MONTH''

Mr. CRAIG submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 424

Whereas perpetrators of financial crimes frequently target their fraud schemes at older Americans because older Americans possess a large percentage of the individual household wealth in the United States;

Whereas many older Americans have been divested of their hard-earned life savings by fraud and frequently pay a high emotional cost, losing not only their money, but also their self-respect and dignity;

Whereas perpetrators of fraud schemes against older Americans reach their victims through the telephone, the mail, or the Internet;

Whereas the United States Postal Inspection Service responded to nearly 80,000 fraud complaints, arrested 1,453 fraud offenders, secured nearly 1,387 fraud convictions, and initiated 102 civil or administrative actions involving fraud in fiscal year 2003;

Whereas fraud investigations by the United States Postal Inspection Service in fiscal year 2003 resulted in nearly $1,500,000,000 in court-ordered and voluntary restitution payments;

Whereas older Americans are often the disproportionate targets of cross-border fraud, including prize promotions, sweepstakes scams, foreign money offers, advance-fee loans, and foreign lotteries, and file 20 percent of all cross-border fraud complaints;

Whereas there was an 80 percent increase in 2003 of reports of Internet fraud targeting older Americans, and the amount of money lost by older Americans to Internet fraud increased from $2,690,618 in 2002 to $12,818,313 in 2003, a 375 percent increase in money lost;

Whereas the Federal Trade Commission reports that 27,300,000 people in the United States have been victims of identity theft in the last 5 years, including 9,900,000 people in the last year alone, and that identity theft has cost businesses and financial institutions nearly $48,000,000,000, in addition to the reported $5,000,000,000 in out-of-pocket expenses incurred by consumer fraud victims;

Whereas there was a 200 percent increase in 2002 of identity theft targeting older Americans, and credit card fraud is perpetrated against older Americans at a higher rate than the general population of the United States;

Whereas the Federal Trade Commission continues to successfully implement its do-not-call registry, with 60 percent of consumers surveyed stating that they registered and 80 percent of the registered consumers surveyed reporting fewer calls, but more older Americans need to be aware that the do-not-call registry is available;

Whereas fraud schemes targeting older Americans have caused losses estimated at millions of dollars a year, and have cost some older Americans their homes;

Whereas consumer awareness is the best protection from telemarketing, mail, Internet, and identity fraud schemes, and the Federal Trade Commission and the United States Postal Inspection Service have resources available to educate and assist the public; and

Whereas it is vital to increase public awareness of the enormous impact that fraud has on older Americans and to educate the public, older Americans, their families, and their caregivers about a wide array of fraud schemes, such as telemarketing, mail, Internet, and identity fraud, and how to report suspected fraud to the appropriate authorities: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 2004 as ''Protecting Older Americans From Fraud Month''; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe the month with appropriate activities and programs that—

(A) prevent the purveyors of telemarketing, mail, Internet, and identity fraud from victimizing the people of the United States; and

(B) educate and inform the public, older Americans, their families, and their caregivers about a number of financial crimes, such as telemarketing, mail, Internet, and identity fraud.

SENATE RESOLUTION 425—HONORING FORMER PRESIDENT WILLIAM JEFFERSON CLINTON ON THE OCCASION OF HIS 58TH BIRTHDAY

Mr. DASCHLE (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 425

Whereas former President William Jefferson Clinton was born in Hope, Arkansas, on August 19, 1946;

Whereas William Jefferson Clinton attended Georgetown University as an undergraduate and received a Rhodes Scholarship in 1968;

Whereas William Jefferson Clinton received a law degree from Yale University in 1973;

Whereas William Jefferson Clinton established a record of public service as Attorney General of Arkansas, Governor of Arkansas, and Chairman of the National Governors Association;

Whereas William Jefferson Clinton campaigned for and won the Democratic nomination for President in 1992;

Whereas William Jefferson Clinton was elected the 42d President of the United States in 1992 and was reelected for a second term in 1996;

Whereas during William Jefferson Clinton's time in office the United States experienced 8 years of economic expansion, job growth, and the transformation of a budget deficit into a budget surplus;

Whereas William Jefferson Clinton rallied the members of the North Atlantic Treaty Organization to put an end to ethnic cleansing in the Balkans and to depose the murderous regime of Slobodan Milosevic, actions which eventually led to the signing of the Dayton Peace Accords;

Whereas William Jefferson Clinton played a major role in the Good Friday Peace Accords which finally brought peace to wartorn Northern Ireland; and

Whereas, in the words of President George W. Bush, William Jefferson Clinton 'showed a deep and far-ranging knowledge of public policy, a great compassion for people in need, and the forward-looking spirit the Americans like in a President': Now, therefore, be it

Resolved, That the Senate honors former President William Jefferson Clinton on the occasion of his 58th birthday on August 19, 2004, and extends best wishes to him and his family.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3630. Mr. DODD (for himself, Mr. SPECTER, Mr. HARKIN, Mr. LEVIN, Mr. SARBANES, Mr. KENNEDY, Mr. DASCHLE, Mr. SCHUMER, Mrs. CLINTON, and Mr. REID) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

SA 3631. Mrs. CLINTON (for herself, Mrs. FEINSTEIN, Mr. DODD, and Mr. SCHUMER) proposed an amendment to the bill H.R. 4567, supra.

SA 3632. Mrs. CLINTON (for herself, Mr. SCHUMER, Mr. KENNEDY, and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra.

SA 3633. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra.

SA 3634. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra.

SA 3635. Mr. FEINGOLD (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra.

SA 3636. Mr. BAUCUS (for himself, Mr. BURNS, Mr. CONRAD, Mr. ROBERTS, Mr. DORGAN, Mr. BROWNBACK, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. COLEMAN, Mr. DAYTON, Mrs. CLINTON, Mrs. MURRAY, Ms. STABENOW, Mr. JOHNSON, Mr. DASCHLE, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra.

SA 3637. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3638. Mr. HATCH (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra.

SA 3639. Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to the bill H.R. 4567, supra.

SA 3640. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra.

SA 3641. Mrs. BOXER (for herself, Mr. CARPER, and Mrs. CLINTON) proposed an amendment to the bill H.R. 4567, supra.

SA 3642. Mrs. BOXER (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra.

SA 3643. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra.

SA 3644. Ms. MURKOWSKI (for herself, Mr. INOUYE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra.

SA 3645. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra.

SA 3646. Mr. TALENT (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra.

SA 3647. Ms. STABENOW (for herself, Mr. CRAIG, and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra.

SA 3648. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra.

SA 3649. Mr. BYRD (for himself, Mr. LEVIN, Mr. BINGAMAN, and Mr. FEINGOLD) proposed an amendment to the bill H.R. 4567, supra.

SA 3650. Mr. BAYH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3651. Mrs. CLINTON (for herself and Mr. SCHUMER) proposed an amendment to the bill H.R. 4567, supra.

SA 3652. Mr. NELSON of Florida (for himself and Mr. GRAHAM of Florida) proposed an amendment to the bill H.R. 4567, supra.

SA 3653. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra.

SA 3654. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3655. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra.

SA 3656. Mr. SCHUMER (for himself, Mr. SARBANES, Mr. REED, Mrs. CLINTON, and Mr. KENNEDY) proposed an amendment to the bill H.R. 4567, supra.

SA 3657. Mr. COCHRAN (for Mr. DURBIN (for himself and Mr. AKAKA)) proposed an amendment to the bill H.R. 4567, supra.

SA 3658. Mr. COCHRAN (for Mr. DOMENICI) proposed an amendment to the bill H.R. 4567, supra.

SA 3659. Mr. COCHRAN (for Mr. TALENT) proposed an amendment to the bill H.R. 4567, supra.

TEXT OF AMENDMENTS

SA 3630. Mr. DODD (for himself, Mr. SPECTER, Mr. HARKIN, Mr. LEVIN, Mr. SARBANES, Mr. KENNEDY, Mr. DASCHLE, Mr. SCHUMER, Mrs. CLINTON, and Mr. REID) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 21, between lines 20 and 21, insert the following:

FIRE DEPARTMENT STAFFING ASSISTANCE GRANTS

For necessary expenses for programs authorized by section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a), to remain available until September 30, 2006, $100,000,000: *Provided*, That not to exceed 5 percent of this amount shall be available for program administration: *Provided, further*, That the amount appropriated by title I under the heading ''OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT'' is hereby reduced by $70,000,000, the amount appropriated by title IV under the heading ''INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION MANAGEMENT AND ADMINISTRATION'' is hereby reduced by $20,000,000, and the amount appropriated by title IV under the heading ''SCIENCE AND TECHNOLOGY MANAGEMENT AND ADMINISTRATION'' is hereby reduced by $10,000,000.

SA 3631. Mrs. CLINTON (for herself, Mrs. FEINSTEIN, Mr. DODD, and Mr. SCHUMER) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 19, line 21, insert '', which shall be allocated based on factors such as threat, vulnerability, population, population density, the presence of critical infrastructure, and other factors that the Secretary considers appropriate,'' after ''grants''.

SA 3632. Mrs. CLINTON (for herself, Mr. SCHUMER, Mr. KENNEDY, and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 39, between lines 5 and 6, insert the following:

SEC. 515.

(a) It is the sense of the Senate that in allocating Urban Area Security Initiative funds to high-threat, high-density urban areas, the Secretary of Homeland Security should ensure that urban areas that face the greatest threat receive Urban Area Security Initiative resources commensurate with that threat.

(b) The amount appropriated to the Office of State and Local Government Coordination and Preparedness for the fiscal year ending September 30, 2005, for discretionary grants for use in high-threat, high-density urban areas under title III of this Act is increased by $625,000,000.

SA 3633. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 14, line 19, strike the period and insert the following: '': *Provided further*, That not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives, a report on opportunities for integrating the process by which the Coast Guard issues letters of recommendation for proposed liquefied natural gas marine terminals, including the elements of such process relating to vessel transit, facility security assessment and facility security plans under the Maritime Transportation Security Act, and the process by which the Federal Energy Regulatory Commission issues permits for such terminals under the National Environmental Policy Act: *Provided further*, That the report shall include an examination of the advisability of requiring that activities of the Coast Guard relating to vessel transit, facility security assessment and facility security plans under the Maritime Transportation Security Act be completed for a proposed liquefied natural gas marine terminal before a final environmental impact statement for such terminal is published under the Federal Energy Regulatory Commission process.''.

SA 3634. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 39, between lines 5 and 6, insert the following new section:

SEC. 515. Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the Secretary of Homeland Security shall provide to the Committee on Commerce, Science, and Transportation and the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate, a classified report on the number of individuals serving as Federal Air Marshals. Such report shall include the number of Federal Air Marshals who are women, minorities, or employees of departments or agencies of the United States Government other than the Department of Homeland Security, the percentage of domestic and international flights that have a Federal Air Marshal aboard, and the rate at which individuals are leaving service as Federal Air Marshals.

SA 3635. Mr. FEINGOLD (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. DATA-MINING REPORT.

(a) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term ''data-mining'' means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government or a non-Federal entity acting on behalf of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist, criminal, or other law enforcement related activity.

(2) DATABASE.—The term ''database'' does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(b) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—The head of each agency in the Department of Homeland Security or the privacy officer, if applicable, that is engaged in any activity to use or develop data-mining technology shall each submit a public report to Congress on all such activities of the agency under the jurisdiction of that official.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology, the plans for the use of such technology, the data that will be used, and the target dates for the deployment of the data-mining technology.

(B) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(C) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(D) Any necessary classified information in an annex that shall be available to the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(3) TIME FOR REPORT.—Each report required under paragraph (1) shall be submitted not

later than 90 days after the end of fiscal year 2005.

SA 3636. Mr. BAUCUS (for himself, Mr. BURNS, Mr. CONRAD, Mr. ROBERTS, Mr. DORGAN, Mr. BROWNBACK, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. COLEMAN, Mr. DAYTON, Mrs. CLINTON, Mrs. MURRAY, Ms. STABENOW, Mr. JOHNSON, Mr. DASCHLE, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE ____—EMERGENCY AGRICULTURAL DISASTER ASSISTANCE

SEC. ___01. CROP DISASTER ASSISTANCE.

(a) DEFINITIONS.—In this section:

(1) ADDITIONAL COVERAGE.—The term ''additional coverage'' has the meaning given the term in section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)).

(2) INSURABLE COMMODITY.—The term ''insurable commodity'' means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(3) NONINSURABLE COMMODITY.—The term ''noninsurable commodity'' means an eligible crop for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(b) EMERGENCY FINANCIAL ASSISTANCE.—Notwithstanding section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)), the Secretary of Agriculture (referred to in this title as the ''Secretary'') shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this section available to producers on a farm that have incurred qualifying crop or quality losses for the 2003 or 2004 crop (as elected by a producer), but not both, due to damaging weather or related condition, as determined by the Secretary.

(c) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.

(d) REDUCTION IN PAYMENTS.—The amount of assistance that a producer would otherwise receive for a qualifying crop or quality loss under this section shall be reduced by the amount of assistance that the producer receives under the crop loss assistance program announced by the Secretary on August 27, 2004.

(e) INELIGIBILITY FOR ASSISTANCE.—Except as provided in subsection (f), the producers on a farm shall not be eligible for assistance under this section with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—

(1) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the crop incurring the losses; and

(2) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for the crop incurring the losses.

(f) CONTRACT WAIVER.—The Secretary may waive subsection (e) with respect to the producers on a farm if the producers enter into a contract with the Secretary under which the producers agree—

(1) in the case of an insurable commodity, to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) providing additional coverage for the insurable commodity for each of the next 2 crops; and

(2) in the case of a noninsurable commodity, to file the required paperwork and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity for each of the next 2 crops under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(g) EFFECT OF VIOLATION.—In the event of the violation of a contract under subsection (f) by a producer, the producer shall reimburse the Secretary for the full amount of the assistance provided to the producer under this section.

SEC. ___02. LIVESTOCK ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2003 or 2004 losses (as elected by a producer), but not both, in a county that has received an emergency designation by the President or the Secretary after January 1, 2003, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(c) MITIGATION.—In determining the eligibility for or amount of payments for which a producer is eligible under the livestock assistance program, the Secretary shall not penalize a producer that takes actions (recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.

SEC. ___03. TREE ASSISTANCE PROGRAM.

The Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide assistance under the tree assistance program established under subtitle C of title X of the Farm Security and Rural Investment Act of 2002 to producers who suffered tree losses during the winter of 2003 through 2004.

SEC. ___04. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

SEC. ___05. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) PROCEDURE.—The promulgation of the regulations and administration of this title shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. ___06. EMERGENCY DESIGNATION.

Amounts appropriated or otherwise made available in this title are each designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1014).

SA 3637. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 25, between lines 7 and 8, insert the following:

ASSISTANCE FOR PRAIRIE DOG OVERPOPULATION AND GRASSLAND REVEGETATION

For projects and activities of the Nebraska National Forest relating to the control of prairie dog overpopulation and development of a long-term strategy for control and revegetation of national grasslands, $2,000,000, to be derived by transfer from the Vegetation and Watershed Management Account of the Forest Service and to be available without regard to any requirement for a statement or analysis: *Provided*, That the amount appropriated under this heading is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1014).

SA 3638. Mr. HATCH (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. None of the funds available in this Act shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

SA 3639. Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year

ending September 30, 2005, and for other purposes; as follows:

On page 39, between lines 5 and 6, insert the following:

SEC. 515. During fiscal year 2005 the Secretary of Homeland Security and the Secretary of Defense shall permit the New Mexico Army National Guard to continue performing vehicle and cargo inspection activities in support of the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement under the authority of the Secretary of Defense to support counterdrug activities of law enforcement agencies.

SA 3640. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 39, between lines 5 and 6, insert the following new section:

SEC. 5 . No funds appropriated or otherwise made available by this Act shall be used to pursue, implement, or enforce any law, procedure, guideline, rule, regulation, or other policy that exposes the identity of an air marshal to any party not designated by the Secretary of the Department of Homeland Security.

SA 3641. Mrs. BOXER (for herself, Mr. CARPER, and Mrs. CLINTON) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 20, line 14, strike ''rail'' and insert ''inter-city passenger rail transportation (as defined in section 24102(5) of title 49, United States Code), freight rail,''.

SA 3642. Mrs. BOXER (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 39, between lines 5 and 6, insert the following new section:

SEC. 515. (a) The Secretary of Homeland Security, in coordination with the head of the Transportation Security Administration and the Under Secretary for Science and Technology, shall prepare a report on protecting commercial aircraft from the threat of man-portable air defense systems (referred to in this section as ''MANPADS'').

(b) The report required by subsection (a) shall include the following:

(1) An estimate of the number of organizations, including terrorist organizations, that have access to MANPADS and a description of the risk posed by each organization.

(2) A description of the programs carried out by the Secretary of Homeland Security to protect commercial aircraft from the threat posed by MANPADS.

(3) An assessment of the effectiveness and feasibility of the systems to protect commercial aircraft under consideration by the Under Secretary for Science and Technology for use in phase II of the counter-MANPADS development and demonstration program.

(4) A justification for the schedule of the implementation of phase II of the counter-MANPADS development and demonstration program.

(5) An assessment of the effectiveness of other technology that could be employed on commercial aircraft to address the threat posed by MANPADS, including such technology that is—

(A) either active or passive;

(B) employed by the Armed Forces; or

(C) being assessed or employed by other countries.

(6) An assessment of alternate technological approaches to address such threat, including ground-based systems.

(7) A discussion of issues related to any contractor liability associated with the installation or use of technology or systems on commercial aircraft to address such threat.

(8) A description of the strategies that the Secretary may employ to acquire any technology or systems selected for use on commercial aircraft at the conclusion of phase II of the counter-MANPADS development and demonstration program, including—

(A) a schedule for purchasing and installing such technology or systems on commercial aircraft; and

(B) a description of—

(i) the priority in which commercial aircraft will be equipped with such technology or systems;

(ii) any efforts to coordinate the schedules for installing such technology or system with private airlines;

(iii) any efforts to ensure that aircraft manufacturers integrate such technology or systems into new aircraft; and

(iv) the cost to operate and support such technology or systems on a commercial aircraft.

(9) A description of the plan to expedite the use of technology or systems on commercial aircraft to address the threat posed by MANPADS if intelligence or events indicate that the schedule for the use of such technology or systems, including the schedule for carrying out development and demonstration programs by the Secretary, should be expedited.

(10) A description of the efforts of the Secretary to survey and identify the areas at domestic and foreign airports where commercial aircraft are most vulnerable to attack by MANPADS.

(11) A description of the cooperation between the Secretary and the Administrator of the Federal Aviation Administration to certify the airworthiness and safety of technology and systems to protect commercial aircraft from the risk posed by MANPADS in an expeditious manner.

(c) The report required by subsection (a) shall be transmitted to Congress along with the budget for fiscal year 2006 submitted by the President pursuant to section 1105(a) of title 31, United States Code.

SA 3643. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING THE AMERICAN RED CROSS AND CRITICAL BIOMEDICAL SYSTEMS.

(a) FINDINGS.—The Senate finds that—

(1) the blood supply is a vital public health resource that must be readily available at all times, particularly in response to terrorist attacks and natural disasters;

(2) the provision of blood is an essential part of the critical infrastructure of the United States and must be protected from threats of terrorism;

(3) disruption of the blood supply or the compromising of its integrity could have wide-ranging implications on the ability of the United States to react in a crisis; and

(4) the need exists to ensure that blood collection facilities maintain adequate inventories to prepare for disasters at all times in all locations.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Department of Homeland Security's Information Analysis and Infrastructure Protection should consult with the American Red Cross to—

(1) identify critical assets and interdependencies;

(2) perform vulnerability assessments; and

(3) identify necessary resources to implement protective measures to ensure continuity of operations and security of information technology systems for blood and blood products.

SA 3644. Ms. MURKOWSKI (for herself, Mr. INOUYE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. DISASTER ASSISTANCE EMPLOYEE CADRES OF EMERGENCY PREPAREDNESS AND RESPONSE DIRECTORATE.

(a) IN GENERAL.—The Secretary of Homeland Security is encouraged to place special emphasis on the recruitment of American Indians, Alaska Natives, and Native Hawaiians for positions within Disaster Assistance Employee cadres maintained by the Emergency Preparedness and Response Directorate.

(b) REPORT.—The Secretary of Homeland Security shall report periodically to the Senate and the House of Representatives with respect to—

(1) the representation of American Indians, Alaska Natives, and Native Hawaiians in the Disaster Assistance Employee cadres; and

(2) the efforts of the Secretary of Homeland Security to increase the representation of such individuals in the cadres.

SA 3645. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 6, line 2, strike the period and insert '': *Provided further*, That of the total amount provided, not less than $4,750,000 may be for the enforcement of the textile transshipment provisions provided for in chapter 5 of title III of the Customs Border Security Act of 2002 (Public Law 107–210; 116 Stat. 988 et seq.).''.

On page 8, line 18, strike the period and insert '': *Provided further*, That of the total amount provided for, not less than $4,750,000 shall be for the enforcement of the textile transshipment provisions provided for in chapter 5 of title III of the Customs Border Security Act of 2002 (Public Law 107–210; 116 Stat. 988 et seq.).''.

SA 3646. Mr. TALENT (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 39, between lines 5 and 6, insert the following:

SEC. 515. It is the sense of the Senate that—

(1) the Director of the Office for State and Local Government Coordination and Preparedness be given limited authority to approve requests from the senior official responsible for emergency preparedness and response in each State to reprogram funds appropriated for the State Homeland Security Grant Program of the Office for State and Local Government Coordination and Preparedness to address specific security requirements that are based on credible threat assessments, particularly threats that arise after the State has submitted an application describing its intended use of such grant funds;

(2) for each State, the amount of funds reprogrammed under this section should not exceed 10 percent of the total annual allocation for such State under the State Homeland Security Grant Program; and

(3) before reprogramming funds under this section, a State official described in paragraph (1) should consult with relevant local officials.

SA 3647. Ms. STABENOW (for herself, Mr. CRAIG, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 21, line 4, insert ''*Provided further*, That funds under this heading may be used to provide a reasonable stipend to part-time and volunteer first responders who are not otherwise compensated for travel to or participation in terrorism response courses approved by the Office for Domestic Preparedness, which stipend shall not be paid if such first responder is otherwise compensated by an employer for such time and shall not be considered compensation for purposes of rendering such first responder an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.):'' after ''Homeland Security:''.

SA 3648. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 16, line 4, before the period at the end, insert the following: '': *Provided, further*, That the budget for fiscal year 2006 that is submitted under section 1105(a) of title 31, United States Code, may include an amount for the Coast Guard that is sufficient to fund delivery of a long-term maritime patrol aircraft capability that is consistent with the original procurement plan for the CN–235 aircraft beyond the three aircraft already funded in previous fiscal years''.

SA 3649. Mr. BYRD (for himself, Mr. LEVIN, Mr. BINGAMAN, and Mr. FEINGOLD) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place, insert the following:

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For an additional amount for necessary expenses of the Transportation Security Administration relating to aviation security services pursuant to the amendments made by the Aviation and Transportation Security Act (115 Stat. 597), $70,000,000, to remain available until expended, for activities relating to screening passengers and carry-on baggage for explosives.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for ''Operating Expenses,'' $20,000,000, for non-homeland security missions (as defined in section 888(a) of the Homeland Security Act of 2002 (6 U.S.C. 468(a))).

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for ''Acquisition, Construction, and Improvements,'' $80,000,000, to remain available until September 30, 2009, for the Integrated Deepwater Systems program.

OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS

STATE AND LOCAL PROGRAMS

For additional amounts for ''State and Local Programs,'' $225,000,000: *Provided*, That of the amounts made available under this heading, $100,000,000 shall be available for discretionary grants for use in high-threat, high-density urban areas as determined by the Secretary of Homeland Security, and $125,000,000 shall be for port security grants.

MASS TRANSIT AND RAIL SECURITY

For necessary expenses relating to mass transit, freight and passenger rail security grants, including security grants for the National Railroad Passenger Corporation, a backup communications facility for the Washington Area Metropolitan Transit Authority, security upgrades for various rail tunnels, research and development of rail security methods and technology, capital construction, and operating requirements, $75,000,000.

SEC. ___. PROHIBITION ON ACQUISITION OF PETROLEUM PRODUCTS FOR STRATEGIC PETROLEUM RESERVE.

(a) FUNDING PROHIBITION.—None of the funds made available by this Act or any other Act may be used during fiscal year 2005 to acquire petroleum products for storage in the Strategic Petroleum Reserve.

(b) AMOUNTS OF OIL CURRENTLY UNDER CONTRACT FOR DELIVERY.—The Secretary of the Interior shall sell, in fiscal year 2005, any petroleum products under contract, as of the date of enactment of this Act, for delivery to the Strategic Petroleum Reserve in that fiscal year.

SA 3650. Mr. BAYH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. The total amount appropriated by title II for the Pre-Disaster Mitigation Fund under the heading ''MITIGATION GRANTS'' is hereby increased by $10,654,000. Of such total amount, as so increased, $10,654,000 is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1014) and shall be available for for the purchase of flood-damaged homes in northeastern Indiana.

SA 3651. Mrs. CLINTON (for herself and Mr. SCHUMER) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 39, between lines 5 and 6, insert the following:

SEC. 515. (a) Of any funds previously made available to the Federal Emergency Management Agency in response to the September 11, 2001, attacks in New York City, not less than $4,450,000 shall be provided, subject to the request of the Governor of New York, to those mental health counseling service entities that have historically provided mental health counseling through Project Liberty to personnel of the New York City Police Department, the New York City Fire Department, and other emergency services agencies, to continue such counseling.

SA 3652. Mr. NELSON of Florida (for himself and Mr. GRAHAM of Florida) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE ___—EMERGENCY AGRICULTURAL DISASTER ASSISTANCE

SEC. ___. CROP LOSSES.

In addition to amounts otherwise made available under this Act, there is appropriated $560,000,000, to remain available until expended, for the Commodity Credit Corporation Fund for crop losses in excess of 25 percent of the expected production of a crop (including nursery stock, citrus, dairy, timber, vegetables, tropical fruit, clams and other shellfish, tropical fish, poultry, sugar, hay, equines, wildflower seed, sod, and honeybees and losses sustained by packing houses) in the State of Florida resulting from Hurricane Charley or Frances: *Provided*, That any producer of crops and livestock in the State of Florida that has suffered at least 25 percent loss to a crop covered by this section, 25 percent loss to livestock, and damage to building structure in 2004, resulting from Hurricane Charley or Frances, shall be eligible for emergency crop loss assistance, emergency livestock feed assistance under the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471 et seq.), and loans and loan guarantees under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

SEC. ___. WATERSHED AND FLOOD PREVENTION OPERATIONS.

In addition to amounts otherwise made available under this Act, there is appropriated $30,000,000, to remain available until expended, for the emergency watershed protection program established under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) and related watershed and flood prevention operations, an additional amount to repair damage to the waterways and watersheds in the State of Florida resulting from Hurricane Charley or Frances.

SEC. ___. EMERGENCY CONSERVATION PROGRAM.

In addition to amounts otherwise made available under this Act, there is appropriated $60,000,000, to remain available until expended, for the emergency conservation program established under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.), an additional amount to repair damage to farmland (including nurseries and structures) in the State of Florida resulting from Hurricane Charley or Frances.

SEC. ___. AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT.

In addition to amounts otherwise made available under this Act, there is appropriated $25,000,000, to remain available until expended, for the Agricultural Credit Insurance Fund program account for the cost of emergency insured loans for costs in the State of Florida resulting from Hurricane Charley or Frances.

SEC. ___. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

In addition to amounts otherwise made available under this Act, there is appropriated $10,000,000, to remain available until expended, for emergency grants to assist low-income migrant and seasonal farmworkers under section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a): *Provided*, That the emergency services to be provided may include such types of assistance as the Secretary of Agriculture determines to be necessary and appropriate (including repair of existing farmworker housing and construction of new farmworker housing units, including housing that may be used by H-2A workers) to replace housing damaged as a result of Hurricane Charley or Frances.

SEC. ___. RURAL HOUSING FOR DOMESTIC FARM LABOR.

In addition to amounts otherwise made available under this Act, there is appropriated $10,000,000, to remain available until expended, for rural housing for domestic farm labor for the cost of repair and replacement of uninsured losses resulting from natural disasters such as Hurricanes Charley and Frances.

SEC. ___. STATE AND PRIVATE FORESTRY.

In addition to amounts otherwise made available under this Act, there is appropriated $5,000,000, to remain available until expended, of which $2,500,000 shall be made available for urban and community forestry and of which $2,500,000 shall be made available for wildland-urban interface fire suppression efforts resulting from fuel loading from damaged or destroyed tree stands in the State of Florida resulting from Hurricane Charley or Frances.

SEC. ___. EMERGENCY DESIGNATION.

The amounts appropriated in this title are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1014).

SA 3653. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 12, line 23, insert before the last period ": *Provided*, That not to exceed $53,000,000 may be provided for transportation worker identification credentialing and $2,000,000 for tracking trucks carrying hazardous material".

SA 3654. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

In section 515 (a) insert "and the Committee on Environment and Public Works of the Senate" after "Governmental Affairs".

SA 3655. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 7, line 16, strike "$2,413,438,000," and insert the following: "$2,763,438,000, of which $200,000,000 shall be reserved for the International Civil Aviation Organization to establish biometric and document identification standards to measure multiple immutable physical characteristics, including fingerprints, eye retinas, and eye-to-eye width and for the Department of Homeland Security to place multiple biometric identifiers at each point of entry; of which $50,000,000 shall be reserved for a program that requires the government of each country participating in the visa waiver program to certify that such country will comply with the biometric standards established by the International Civil Aviation Organization; of which $25,000,000 shall be reserved for the entry and exit data systems of the Department of Homeland Security to accommodate traffic flow increases; of which $50,000,000 shall be reserved to integrate the entry and exit data collection and analysis systems of the Department of Homeland Security, the Department of State, and the Department of Justice, including the Federal Bureau of Investigation; of which $25,000,000 shall be reserved to establish a uniform translation and transliteration service for all ports of entry to identify the names of individuals entering and exiting the United States;".

SA 3656. Mr. SCHUMER (for himself, Mr. SARBANES, Mr. REED, Mrs. CLINTON, and Mr. KENNEDY) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 20, line 7, strike "$1,200,000,000" and insert "$1,550,000,000".

On page 20, line 13, strike "$150,000,000" and insert "$500,000,000".

SA 3657. Mr. COCHRAN (for Mr. DURBIN (for himself and Mr. AKAKA)) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 39, between lines 5 and 6, insert the following:

SEC. 515. Sections 702 and 703 of the Homeland Security Act of 2002 (6 U.S.C. 342 and 343) are amended by striking ", or to another official of the Department, as the Secretary may direct" each place it appears.

SA 3658. Mr. COCHRAN (for Mr. DOMENICI) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. —.

Section 208(a) of Public Law 108–137; 117 Stat. 1849 is amended by striking "current" and inserting "2005".

SA 3659. Mr. COCHRAN (for Mr. TALENT) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. LIAISON FOR DISASTER EMERGENCIES.

(a) DEPLOYMENT OF DISASTER LIAISON.—If requested by the Governor or the appropriate State agency of the affected State, the Secretary of Agriculture may deploy disaster liaisons to State and local Department of Agriculture Service Centers in a federally declared disaster area whenever Federal Emergency Management Agency Personnel are deployed in that area, to coordinate Department programs with the appropriate disaster agencies designated under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(b) QUALIFICATIONS.—A disaster liaison shall be selected from among Department employees who have experience providing emergency disaster relief in federally declared disaster areas.

(c) DUTIES.—A disaster liaison shall—

(1) serve as a liaison to State and Federal Emergency Services;

(2) be deployed to a federally declared disaster area to coordinate Department interagency programs in assistance to agricultural producers in the declared disaster area;

(3) facilitate the claims and applications of agricultural producers who are victims of the disaster that are forwarded to the Department by the appropriate State Department of Agriculture agency director; and

(4) coordinate with the Director of the State office of the appropriate Department agency to assist with the application for and distribution of economic assistance.

(d) DURATION OF DEPLOYMENT.—The deployment of a disaster liaison under subsection (a) may not exceed 30 days.

(e) DEFINITION.—In this section, the term "federally declared disaster area" means—

(1) an area covered by a Presidential declaration of major disaster, including a disaster caused by a wildfire, issued under section 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); or

(2) determined to be a disaster area, including a disaster caused by a wildfire, by the Secretary under subpart A of part 1945 of title 7, Code of Federal Regulations.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, September 14, 2004, at 10 a.m., to hear testimony on "Implementing the Medicare Prescription Drug Benefit and

Medicare Advantage Program: Perspectives on the Proposed Rules.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to continue its markup on Tuesday, September 14, 2004 at 10 a.m. in Dirksen Senate Office Building Room 226.

Agenda

I. Nominations

Claude A. Allen, to be U.S. Circuit Judge for the Fourth Circuit; David E. Nahmias, of Georgia, to be United States Attorney for the Northern District of Georgia; Ricardo H. Hinojosa, to be Chair of the United States Sentencing Commission; Michael O'Neill, to be a Member of the United States Sentencing Commission; Ruben Castillo, to be a Member of the United States Sentencing Commission; William Sanchez, to be Special Counsel for Immigration-Related Unfair Employment Practice; Richard B. Roper III, of Texas, to be United States Attorney for the Northern District of Texas for the term of four years.

II. Legislation

S. 1635, L–1 Visa (Intracompany Transferee) Reform Act of 2003, Chambliss;

S. 1700, Advancing Justice through DNA Technology Act of 2003, Hatch, Biden, Specter, Leahy, DeWine, Feinstein, Kennedy, Schumer, Durbin, Kohl, Edwards;

S. 2396, Federal Courts Improvement Act of 2004, Hatch, Leahy, Chambliss, Durbin, Schumer;

H.R. 1417, To amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges Act of 2003, Smith–TX, Berman–CA, Conyers–MI;

S. 2204, A bill to provide criminal penalties for false information and hoaxes relating to terrorism Act of 2004, Hatch, Schumer, Cornyn, Feinstein, DeWine;

S. 1860, A bill to reauthorize the Office of National Drug Control Policy Act of 2003, Hatch, Biden, Grassley;

S. 2195, A bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors Act of 2004, Biden, Hatch, Grassley, Feinstein;

S.J. Res. 23, A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated Act of 2003, Cornyn, Chambliss.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 14, 2004 at 10 a.m. to hold a hearing on the nomination of Porter J. Gross to be Director of Central Intelligence.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Tuesday, September 14, 2004 from 10:00 a.m. to 12:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights be authorized to meet on Tuesday, September 14, 2004 to conduct a hearing on ''Hospital Group Purchasing: How To Maintain Innovation and Cost Savings'', at 2:00 p.m. in Room 226 of the Dirksen Senate Office Building.

Witness List:

Dr. Robert Betz, President and CEO, Health Industry Group Purchasing Association, Arlington, VA.

Joe E. Kiani, President and CEP, Masimo Corporation, Irvine, CA.

David Balto, Robins, Kaplan, Miller & Ciresi, LLP, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OCEANS, FISHERIES, AND COAST GUARD

Mr. COCHRAN. Mr. President, I ask unanimous consent that Subcommittee on Oceans, Fisheries and Coast Guard be authorized to meet on Tuesday, September 14, 2004, at 8:30 a.m. on Magnuson/Stevens Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, be authorized to meet on Tuesday, September 14, 2004 at 9:30 a.m. for a hearing entitled, ''The 9/11 Commission Human Capital Recommendations: A Critical Element of Reform.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Public Land and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, September 14 at 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 2532, to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, NV, and for other purposes; S. 2723, to designate certain land in the State of Oregon as wilderness, and for other purposes; and S. 2709, to provide for the reforestation of appropriate forest cover on forest land derived from the public domain, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. SCHUMER. Mr. President, I ask unanimous consent my new Judiciary staffer, Joshua Levy, be given floor privileges during the duration of this session of Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 2674

Mr. FRIST. Mr. President, I ask unanimous consent that at 9:45 a.m. on Wednesday, September 15, the Senate proceed to the consideration of Calender No. 674, S. 2674, the military construction appropriations bill; that the two managers' amendments at the desk be agreed to and no other amendments be in order. I further ask unanimous consent that there be 1 hour of debate equally divided and at the conclusion or yielding back of the time the bill, as amended, be read the third time and returned to the Senate Calendar.

I further ask unanimous consent that the Senate then proceed to Calender No. 690, H.R. 4837, the House-passed military construction bill; that all after the enacting clause be stricken and the text of S. 2674, as amended, be inserted in lieu thereof; that the bill be read the third time and the Senate proceed to a vote on H.R. 4837 at a time to be determined by the majority leader in consultation with the Democratic leader, all without intervening action or debate.

I further ask unanimous consent that upon passage of the bill, the Senate insist on its amendment, as amended, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO REQUEST RETURN OF PAPERS—S. 2261

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate request the House to return the papers with respect to S. 2261.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING FORMER PRESIDENT WILLIAM JEFFERSON CLINTON

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate

proceed to the immediate consideration of S. Res. 425 submitted earlier today by Senators DASCHLE, REID, and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 425) honoring former President William Jefferson Clinton on the occasion of his 58th birthday.

There being no objection, the Senate proceeded to consider the resolution.

THE BIRTHDAY OF FORMER PRESIDENT CLINTON

Mr. HATCH. Mr. President, like many Americans, I was concerned to learn that former President Bill Clinton was suffering serious heart disease and had to be hospitalized for heart bypass surgery. Like many Americans, I was relieved to learn that his surgery had gone well, and that the former President is recuperating in his home in New York. The former President is known for his energy, and I hope that he will have a speedy recovery and will return to full health soon. I offer my best regards to him and his family, including our distinguished colleague, Senator CLINTON.

Inspired, no doubt, by this concern, our Democratic colleagues have joined in sponsoring a resolution to honor the former President on his 58th birthday. I wish to join them in wishing former President Clinton greetings on his 58th birthday, and I wish him many more.

Unfortunately, there is language in this resolution that is incorrect, at least because it is historically inaccurate, and at most because it seriously distorts the historical record and defames the memory of 200,000 victims of genocide in southeastern Europe.

There is a bizarre clause in this otherwise laudable attempt to give the President a legislative birthday card that states:

Whereas William Jefferson Clinton rallied the members of the North Atlantic Treaty Organization to put an end to ethnic cleansing in the Balkans and to depose the murderous regime of Slobodan Milosevic, actions which eventually led to the signing of the Dayton Peace Accords . . . .

I know that, in the hurried pace of work around here, particularly in this type of political season, a certain sloppiness can find its way into legislative language. But this statement, as I have said, is incorrect and offensive.

It is incorrect because, as anyone who knows the history will confirm—and I was here in the Senate throughout the bloody wars of southeast Europe in the 1990s—the removal of Slobodan Milosevic from power occurred in 2000, almost 5 years after the Dayton Peace Accords were signed in the autumn of 1995. That's why the statement is inaccurate.

The statement is offensive because almost 200,000 innocent civilians died as victims of ethnic cleansing from the outbreak of the wars of southeast Europe in 1992 until the United States finally acted in the late summer of 1995. The majority of those deaths, I must remind my colleagues, occurred during the first three years of the Clinton Presidency.

From the outbreak of the wars of Yugoslavia in 1992, I came to this floor advocating a policy of ''lift and strike'': lift the international arms embargo imposed on Yugoslavia and strike, with air power, the Yugoslavian army under the control of the mass murderers Slobodan Milosevic, Radovan Karadzic and Ratko Mladic. I was joined on the Senate floor by my colleagues JOE BIDEN, JOE LIEBERMAN and Bob Dole and many other Members of this body. The first Bush administration ignored us and left office shortly after the wars began. President Clinton, who ran on a campaign platform supporting ''lift and strike,'' reversed his position upon entering office and assumed a policy consistent, it appears, with current Democratic foreign policy thinking, that deferred to the international community.

We can recall the effectiveness of the United Nations in Bosnia, when we think of blue-helmeted U.N. forces remaining by the sidelines as Serb forces captured Srebrenica in the summer of 1995, and herded thousands of unarmed men and boys—boys—to their slaughter in mass graves.

That summer, a summer that began with Serb militaries surrounding the eastern enclaves of Bosnia and the Clinton administration refusing to lift the arms embargo preventing the Bosnians from defending themselves, while Bosnian Prime Minister Siladzic came to Washington and begged not to leave his people to die unarmed, the Dole-Lieberman-Hatch resolution lifting the arms embargo passed by 69 votes. This veto-proof measure, along with the photos of the horrors of Srebrenica on the front page of The Washington Post—one horrid photo showed a woman hanging herself in despair—caused the Clinton administration to relent.

When Bill Clinton acted, in late 1995, he saw that, when the United States leads, the international community will follow. When he acted again, in 1999, to stop Milosevic's campaign in Kosovo—a campaign we knew would happen when Milosevic was not removed from power in 1995—the international community followed. In both cases, I supported the President, as did a number of Republican Members in this body. He acted too late for hundreds of thousands, but he finally acted. It will be left to the historians, along with the members of that administration, to ponder and justify and explain why there was value in waiting while genocide raged across southeastern Europe.

A birthday gesture to a former President is not the place for this debate, and I certainly would not speak here were it not for this ill-conceived language that appears in this resolution. But legislation of any kind becomes a permanent record of the work of the United States Congress. This language, when stating historical fact, contributes to the interpretation of history. I am a proud member of the council of the Holocaust Museum and I am proud to support the mission of that revered institution, which could simply be stated that the truth of genocide should always be stated. To allow the clause I have just read from this otherwise harmless birthday resolution to become a statement of historical fact is a whitewash of history, something a democratic body should never do.

But worse, it is a calumny, a grave dishonor, on the memories of 200,000 civilians of southeastern Europe, people who died in a genocidal war in Europe less than 50 years after the Holocaust, civilian men and women and children who died while the international community failed, the U.N. failed and two administrations, including President Clinton's administration, for almost 3 years, waited for a power to act like only the United States can.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 425) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 425

Whereas former President William Jefferson Clinton was born in Hope, Arkansas, on August 19, 1946;

Whereas William Jefferson Clinton attended Georgetown University as an undergraduate and received a Rhodes Scholarship in 1968;

Whereas William Jefferson Clinton received a law degree from Yale University in 1973;

Whereas William Jefferson Clinton established a record of public service as Attorney General of Arkansas, Governor of Arkansas, and Chairman of the National Governors Association;

Whereas William Jefferson Clinton campaigned for and won the Democratic nomination for President in 1992;

Whereas William Jefferson Clinton was elected the 42d President of the United States in 1992 and was reelected for a second term in 1996;

Whereas during William Jefferson Clinton's time in office the United States experienced 8 years of economic expansion, job growth, and the transformation of a budget deficit into a budget surplus;

Whereas William Jefferson Clinton rallied the members of the North Atlantic Treaty Organization to put an end to ethnic cleansing in the Balkans and to depose the murderous regime of Slobodan Milosevic, actions which eventually led to the signing of the Dayton Peace Accords;

Whereas William Jefferson Clinton played a major role in the Good Friday Peace Accords which finally brought peace to wartorn Northern Ireland; and

Whereas, in the words of President George W. Bush, William Jefferson Clinton 'showed

a deep and far-ranging knowledge of public policy, a great compassion for people in need, and the forward-looking spirit the Americans like in a President': Now, therefore, be it

Resolved, That the Senate honors former President William Jefferson Clinton on the occasion of his 58th birthday on August 19, 2004, and extends best wishes to him and his family.

EXTENSION OF SMALL BUSINESS ADMINISTRATION PROGRAMS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5008, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5008) to provide an additional temporary extension of programs under the Small Business Act, and the Small Business Investment Act of 1958 through September 30, 2004, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Ms. SNOWE. Mr. President, I rise today to address H.R. 5008, a bill to provide a temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and to enhance the operations of the Small Business Administration.

The bill before us would extend until September 30, 2004, SBA programs that have expired. In addition, it would provide clarification as to the SBA's method of reimbursing its Fiscal and Transfer Agent, which assists in the operation of the SBA's vital loan programs.

In July 2004 I introduced S. 2700, a bill that extended these same SBA programs and also provided this clarification regarding the Fiscal and Transfer Agent. The Senate unanimously approved S. 2700 on July 20, but unfortunately the other body failed to pass that bill, leaving many critical small business assistance programs unauthorized. Today, we have another opportunity to renew these programs and to provide this legislative improvement, and we should not miss the chance.

Since 1953, nearly 20 million small business owners have received direct or indirect help from one of the SBA's lending or technical assistance programs, making the agency one of the Government's most cost-effective instruments for economic development. The SBA's current loan portfolio of more than 175,000 loans, worth more than $45 billion, makes it the largest single supporter of small businesses in the country.

According to the SBA, the $65.5 billion awarded to small businesses in Federal prime and subcontracts in FY 2003 allowed small businesses to create or retain close to 500,000 jobs. Over the last five years the SBA's programs and services have helped create and retain over 6.2 million jobs.

The Senate agreed unanimously in September 2003 to pass a bill I introduced, the Small Business Administration 50th Anniversary Reauthorization Act of 2003, to authorize the entire SBA for a three-year period. However, we have been unable to reauthorize the SBA because the other body has been stalled in its consideration of SBA authorization legislation. According to the SBA, reauthorizing the agency will result in an estimated 3.3 million jobs created or retained over the next 5 years, with the SBA and its programs predicted to support over 1 million additional jobs over that same period through prime contracts and subcontracts.

In the absence of a full reauthorization of the Agency, which I am still working to bring about, it is vital that we extend those programs that can provide current assistance to small businesses. The bill before us, H.R. 5008, would renew the authorization for several SBA programs, including the Preferred Surety Bond Program. This program provides an essential service to small businesses by guaranteeing surety bonds for small business contracts, thereby permitting small businesses to undertake thousands of projects which would otherwise be out of reach.

H.R. 5008 would also specify the manner in which the SBA may compensate its Fiscal and Transfer Agent. This agent administers payments and fee collection in the SBA's loan programs and in the secondary market for those loans. This legislative change, requested by the administration in its budget submission to Congress for Fiscal Year 2005, would provide guidance as to the SBA's method of compensating its agent.

Additionally, this legislation will preserve the operations of existing Women's Business Center that currently serve women entrepreneurs in almost every State and territory. Today, more than 10.6 million women-owned small businesses are helping to fuel our economic recovery: they employ over 19 million Americans and contribute $2.46 trillion in revenues. In my home State of Maine, there are more than 63,000 women-owned firms, generating more than $9 billion in sales. Numbers like these speak for themselves, and are clear evidence of the success of the Women's Business Centers Program.

Moreover, according to research, between 2001 and 2003, women's business center clients reported starting over 6,600 new firms and creating more than 12,000 new jobs.

Mr. President, without this legislation, many of the Centers may be in jeopardy of closing their doors. This would be a significant loss, given that some of these Centers have proven to be powerful engines of economic development in communities across the Nation.

As we work toward the larger goal of a full reauthorization of the SBA, I urge my colleagues to support the enactment of H.R. 5008. This legislation would allow essential SBA programs to continue to assist small businesses during the remainder of this Fiscal Year.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, today I join Chair SNOWE in supporting legislation to keep the Small Business Administration and its financing and counseling assistance available to small businesses. This bill temporarily authorizes the SBA and most of its programs through September 30, 2004. In addition to the temporary extension, this bill includes a provision necessary to bring the administration into compliance with a January 2003 recommendation by the SBA's Inspector General. This change will save the SBA hundreds of thousands of dollars by allowing the agency's fiscal and transfer agent for the 7(a) loan program's secondary market program to keep the interest earned on fees lenders pay before they are remitted to the Government. Currently, the SBA does not have that authority. The committee wants the program to continue running smoothly and successfully, and we think this change should accomplish this.

Six SBA programs were halted after S. 2700, a similar bill sponsored by Senate Small Business and Entrepreneurship Committee Chair OLYMPIA SNOWE and myself, passed the Senate on July 20 but did not pass the House prior to the August recess. The six programs reinstated by H.R. 5008 are: the Women's Business Center Sustainability program, the Small Disadvantaged Business, SDB, program, the Preferred Surety Bond, PSB, Guarantee program, the Small Business Development Center, SBDC, Drug-Free Workplace Assistance Grants program, the Very Small Business Concerns program, and the SBA's co-sponsorship authority.

With passage of this bill, the committee expects the SBA to move forward on grants for all its programs and certification for minority businesses, and any other activities it has been delaying.

And while I am pleased that this bill will extend all of SBA's programs and pilot programs, I am disappointed that the dire and urgent needs of the women's business center program have yet to be fully addressed. Given the abysmal job creation record of this administration, we must aggressively seek and support innovative ways to create jobs, and the women's business center program has a proven track record of doing just that. Last year alone, the women's business center network helped over 100,000 female entrepreneurs grow their businesses, employ more people, and expand economic opportunity.

A study recently released by the National Women's Business Council shows that over the past 2 years, while funding for the women's business center program has remained essentially flat, the number of clients served increased by 91 percent and the number of new businesses started went up 376 percent.

The study also found that the businesses counseled by women's business centers had an economic impact of $500 million in gross receipts, $51.4 million in profit, and created 12,719 new jobs. With these numbers, it is clear that the women's business center program is a wise investment that will continue to pay dividends to women in business, the Government and our national economy well into the future.

As many of my colleagues know, there are currently 87 women's business centers. Of these, 35 are in the initial grant program and 53 have graduated to the sustainability part of the program. These sustainability centers make up more than half of the total women's business centers, but under the current funding formula are only allotted 30 percent of the funds. Without changing the portion reserved for sustainability centers to 48 percent, as the Senate-passed Snowe-Kerry bill, S. 2267, directs, all grants to sustainability centers could be cut in half, or worse, more than 20 experienced centers could lose funding completely.

I believe it is very important to pass H.R. 5008 and extend the pilot so that our most experienced centers can continue their good work for women-owned businesses; however, the current funding formula for the Women's Business Center still needs to be updated. As the author of the bill to establish the sustainability program, I am hopeful that my colleagues in Congress will soon come together to fix this problem and secure the women's business center network once and for all.

I thank my colleagues for their support of small businesses and for considering immediate passage of this important small business bill.●

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5008) was passed.

ORDERS FOR WEDNESDAY, SEPTEMBER 15, 2004

Mr. FRIST. Mr. President, I ask unanimous consent when the Senate completes its business today, it adjourn until 9:45 a.m. on Wednesday, September 15. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to the consideration of the military construction appropriations bill as under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, it is a little after 11:15 tonight. We have had a very long day, a long evening, but a very productive day and evening in that we have completed the homeland appropriations bill with a unanimous vote of 93 to 0. I thank all Members for their patience and for their willingness to continue late into the night to wrap up our work on the bill.

We will resume business tomorrow morning and consider another appropriations measure. I will update all Members tomorrow as to what to expect over the course of the next couple of days. Again, I congratulate our colleagues, THAD COCHRAN, and the ranking member for all of their hard work on the homeland bill.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:18 p.m., adjourned until Wednesday, September 15, 2004, at 9:45 a.m.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE 9/11 COMMISSION RECOMMENDATIONS IMPLEMENTATION ACT OF 2004 (H.R. 5024)

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Ms. PELOSI. Mr. Speaker, recently the nation marked the third anniversary of the September 11 attacks.

In addition to mourning the loss of so many lives, it is appropriate to ask: ''Are we as safe as we should be?'' Sadly, two high level inquiries, including the independent 9/11 Commission, have said: ''no.''

Our rail lines, ports, commercial aircraft, power plants, chemical facilities, and other critical infrastructure components are not as secure as they should be.

Our first responders are not able to communicate with one another in real time, as they should be.

Much of the world's supply of the materials used to build weapons of mass destruction is not secured, as it should be.

Initiatives in the Department of Homeland Security are not funded adequately by the President and the Republican Congress, as they should be.

The nation's unmet security needs involve more than insufficient resources. The systemic governmental failures that opened the door for the terrorists to strike on 9/11 have been repeatedly identified. But there has been no concerted effort to fix them.

Eighteen months ago, a Joint Inquiry by the congressional intelligence committees produced a bipartisan call for change in the structure of the intelligence community. Nothing came of it.

Eight weeks ago, the 9/11 Commission issued a unanimous, bipartisan report recommending change—in the intelligence community and elsewhere—to deal with the terrorist threat. The Commission coupled its recommendations with a call for urgent action.

What was the response? The congressional recess went on, largely undisturbed, even after the threat level for New York and Washington was raised.

There has been too much delay. Congress must commit itself today to using the time left in this session to enact legislation to address the problems identified so clearly by the Commission and others.

To focus our efforts, many of my Democratic colleagues have joined me in introducing a bill that translates the Commission's recommendations into legislative language.

This bill will give the committees of jurisdiction a framework for considering the proposals on their merits, and reporting them to the House quickly for debate and votes.

United together, with an unwavering bipartisan commitment to the security of our country, let us make as much progress as we can so that our words of comfort to the victims' families on September 11 are not diminished by their knowledge of how much critical work remains unfinished.

INTRODUCTION OF THE EVERY VOTE COUNTS AMENDMENT TO THE CONSTITUTION

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. GREEN of Texas. Mr. Speaker, I propose an amendment to the Constitution of the United States to abolish the electoral college and to provide for the direct popular election of the President and Vice President of the United States. I would like to start with a quote from Thomas Jefferson regarding the electoral college.

I have ever considered the constitutional mode of election ultimately by the Legislature voting by States as the most dangerous blot in our Constitution, and one which some unlucky chance will some day hit and give us a pope and antipope.

Mr. Speaker, I believe that these unlucky chances are hitting us today. The stakes of American presidential elections are tremendous for all of us but our Presidential candidates focus their activities on small numbers of ''swing voters'' in roughly a dozen states.

This is an injustice. All Americans are created equal and all Americans vote should count the same. So today, I am reintroducing legislation I authored in 2001 with my colleague from Washington State, Mr. BAIRD.

Our legislation, the Every Vote Counts Amendment would begin a Constitutional Amendment process to create national elections that are simple, democratic and counts every American equally. The heart of the amendment is Section Three, which reads: ''The persons having the greatest number of votes for President and Vice President shall be elected.''

The people, not small groups of partisans, should be responsible for filling the highest office in America. The Electoral College violates the sacred democratic principle of ''one man, one vote.'' It should be abolished and replaced by something simple and fair.

Why should the candidate who wins the most votes not win the election? Opponents of this Amendment cannot justify why a less popular candidate should win, without saying, ''that's the way we have always done it.''

In 1913, Congress and the states trusted the people to elect their senators when we approved the Seventeenth Amendment. Today, we should trust the people to elect the President of the United States through a direct vote.

Every vote should carry the same weight in the election, no matter where in the nation it was cast. Texas Democrats, New York Republicans, California Republicans, and South Carolina Democrats would again have a say in the election of their President.

America is one nation, and our President should not wage a handful of separate campaigns in evenly balanced states, but one campaign, in all states, for all the people.

My constituents are unjustly ignored because neither candidate ever comes to Texas except to look for money, not votes. That is an insult to all Texans, Democratic and Republican.

Americans got a shocking look at our needlessly complex national election process in 2000, when we watched outcomes of recounts of hundreds of votes in a handful of counties determine an election in which over 100 million people voted.

We began to worry whether members of the Electoral College would be faithful to their states. We began to fear an election decided by just 435 individuals in the House of Representatives, which we have seen can be manipulated by redistricting.

There is nothing more simple and fair than: ''the persons having the greatest number of votes for President and Vice President shall be elected.''

In America, every vote should count and they should count equally. Therefore, we should adopt the Every Vote Counts Amendment and allow the states to begin the process of ratification.

RECOGNIZING THE ROBERT E. MITCHELL CENTER FOR PRISONER OF WAR STUDIES

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. MILLER of Florida. Mr. Speaker, it is a great honor for me to rise today in recognition of the Robert E. Mitchell Center for Prisoner of War Studies.

The original Center for Prisoner of War Studies was established in 1972 under a five-year charter to study long-term effects of captivity on repatriated Vietnam prisoners-of-war. After the initial five years, the Air Force and Army programs were discontinued. Captain Robert Mitchell continued to successfully direct the Navy-Marine program, so successfully in fact that Air Force Vietnam POWs rejoined the program in 1993 and Army POWs rejoined in 1997.

Located in my district in Northwest Florida, the Mitchell Center is the only program in existence that works with three branches of the armed services in this field, and currently sees over half of today's surviving Vietnam POWs. Findings from the Center's research have been used worldwide in medical and psychological fields, paving the way for further insight into POW studies. The Center now works with repatriated POWs from World War II all the way through Desert Storm.

Recognizing the importance of the Mitchell Center's findings, Secretary of the Navy Gordon England signed a Memorandum of Understanding this year with the Robert E. Mitchell

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Foundation allowing it to raise money for the sole purpose of supporting the Mitchell Center's success.

Mr. Speaker, on behalf of the United States Congress, I would like to commend the Mitchell Center for its groundbreaking work in supporting our nation's prisoners of war as we bring them home.

TRIBUTE TO THE PINELANDS CULTURAL SOCIETY

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to the Pinelands Cultural Society as it celebrates its 30th year of incorporation with a special celebration concert at Albert Music Hall on November 20, 2004.

The Pinelands Cultural and Historical Preservation Society is a grass roots, non-profit, all-volunteer organization that has been operating in southern New Jersey for the past three decades to preserve the cultural heritage of the New Jersey Pinelands region.

The Society's goals include preservation and stimulation of interest in South Jersey's musical and cultural heritage. Running a live show 50 Saturday nights each year, plus special occasion Sunday shows, the proceeds, along with individual donations of time, talents and money have culminated in the creation of the present 350–seat concert hall building called ''Albert Music Hall'' which serves as a ''living history'' venue for the presentation of live acoustic music concerts in the decades-old tradition of people indigenous to the Pinelands area. It also serves as a repository for extensive historic archives including audiotape and videotape recordings, documentation and photographs reflecting life in the New Jersey Pines from the early 1900s.

Albert Music Hall has been inducted into the American Folklore Center, Local Legacies Collection Archive at the Library of Congress, and is also registered in the Library of Congress' Moving Image Collections Archive Database.

Thus, I am pleased to recognize the efforts of an expert staff of volunteers for their efforts in bringing New Jersey's history to life. I congratulate them, and wish them many more decades of success.

PERSONAL EXPLANATION

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. GOSS. Mr. Speaker, this afternoon I was called away on official government business, as a result, I was not able to be present for rollcall vote 431. Had I been present, I would have voted ''yes''. I request that this statement appear at the appropriate place in the RECORD.

HONORING LAWRENCE B. MARTIN

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Ms. LEE. Mr. Speaker, I rise today to honor the extraordinary career of Lawrence ''Larry'' Martin of San Francisco, California on the occasion of his retirement from 38 years of outstanding civic leadership and public service.

Upon completion of his service time on active duty in the U.S. Army, Larry began his civilian career in San Francisco in 1966. Upon joining the ranks of the platform employees of the San Francisco Municipal Railway System, he became an active member of the Transportation Workers Union of America, AFL–CIO Local 250–A. Committed to pursuing his educational interest in the labor movement, Larry attended the Labor and Management School at the University of San Francisco, took classes in Labor and Urban Studies at the University of California, Berkeley, and was later awarded his A.A. degree in Labor and Urban Studies at Merritt College in Oakland, California.

In the decades that followed, Larry would draw on these experiences to become increasingly active in the areas of labor studies and civic leadership. While serving as President of TWU Local 250–A and later as a member of the Labor Advisory Boards of the Labor Studies departments at U.C. Berkeley, San Francisco State University, the University of San Francisco, and the Community College District of San Francisco, he was also instrumental in steering various city boards and commissions. Not only did Larry serve for over 12 years on the San Francisco Human Rights Commission, but also served for over 8 years on the Planning Commission. In addition, Larry has played a vital role for several years as an Executive Board Member of the National Association for the Advancement of Colored People, on the San Francisco Recreation and Parks Commission since 2000, as an Executive Board Member of the San Francisco Labor Council, and as the Director of the TWU California State Conference.

On September 17 and 18, 2004, Larry will be honored in San Francisco, California on the occasion of his retirement. I would like to take this opportunity to commend his exceptional achievements not only in the areas of education and labor, but also for his role as a leader in the areas of civic planning and local government. By demonstrating his commitment to the improvement of workplace standards and quality of life for all, Larry has contributed immeasurably to the community of the Bay Area, and the 9th Congressional District salutes and congratulates him for 38 remarkable years of service.

ON THE 50TH ANNIVERSARY OF THE DEPARTMENT OF COMMERCE'S LABORATORIES IN BOULDER, CO

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. EHLERS. Mr. Speaker, I rise today to recognize the 50th anniversary and rededication of the Department of Commerce laboratories located in Boulder, Colorado. Three Commerce Department agencies have labs located in Boulder: the National Institute of Standards and Technology (NIST), the National Oceanic and Atmospheric Administration (NOAA), and the National Telecommunications and Information Administration (NTIA). As chairman of the House Science Subcommittee on Environment, Technology, and Standards, I have the honor and pleasure to be responsible for overseeing the research work of these three important research laboratories.

The Boulder laboratories were first dedicated by President Dwight D. Eisenhower on September 14, 1954. Since then they have made significant contributions in such fields as precision timekeeping, nanotechnology, wireless communications, and atmospheric and climate science. This research has been critical to developments in public and private infrastructure, homeland security, and a variety of technology-based industries.

The Boulder laboratories are located on land that was donated by the citizens of Boulder who, in 1950, raised the necessary $90,000 in funds in two weeks to purchase 217 acres for the first buildings. This generous act set the stage for the strong relationship between the Commerce laboratories and the community in Boulder that continues to this day.

The Commerce laboratories have two joint institutes with the University of Colorado at Boulder: the Joint Institute for Laboratory Astrophysics, or JILA, a partnership with NIST, and the Cooperative Institute for Research in the Environmental Sciences (CIRES), a partnership with NOAA. As a young physicist, I spent a year doing research at JILA, and have happy memories of the research and collegial atmosphere fostered by this relationship between NIST and the university.

Let me mention just a few of the recent accomplishments of the employees at the Department of Commerce's Boulder laboratories and Joint Institutes. NIST staff at Boulder include Eric Cornell, who in 2001 won the Nobel Prize for Physics together with Carl Wieman of the University of Colorado for creation of a Bose-Einstein condensate, a new state of matter. Deborah Jin recently won a MacArthur ''Genius'' Award to pursue research on the science of atomic clocks and lasers. Staff at the NOAA laboratories include Susan Solomon, recipient of the ''Blue Planet Prize'' and the 1999 National Medal of Science for her work on identifying the cause of the Antarctic Ozone Hole. Dr. Hans Liebe of NTIA won the 2002 Harry Diamond Memorial Award, the highest recognition for technical achievement given by the 235,000–member United States unit of the Institute of Electrical and Electronics Engineers (IEEE). This is just a sample of the hundreds of hard-working, dedicated personnel at the Boulder labs, and their contributions to American science and technology.

Mr. Speaker, I want to congratulate the Department of Commerce laboratories in Boulder, Colorado on their first 50 years. Based on their performance since 1954, I believe we can expect at least another 50 years of pioneering scientific research from these outstanding institutions, their academic and industrial partners, and their many scientists and technicians.

PERSONAL EXPLANATION

HON. GENE TAYLOR

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. TAYLOR of Mississippi. Mr. Speaker, yesterday, on September 13, 2004, I was unavoidably detained in my congressional district while making preparations for the probable landfall of Hurricane Ivan. Unfortunately, I missed rollcall votes no. 441, 442 and 443. Had I been present, I would have voted "yea" on each of the rollcall votes.

Mr. Speaker, I would like to request unanimous consent to enter my statement into the record at the appropriate location.

PAYING TRIBUTE TO SEAN LINDSTONE

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. TANCREDO. Mr. Speaker, I would like to take a moment to recognize Sean Lindstone, whose outstanding academic achievement has given him the opportunity to continue his education abroad. Sean has earned the prestigious Fulbright award to teach English as a foreign language in South Korea during the 2004–2005 academic year.

The Fulbright Program is the oldest of its kind in the United States and is designed to increase mutual understanding amongst international academia. Since its inception in 1946, the program has seen some 285,000 grantees. Recipients are selected on the basis of their academic, professional, and leadership potential within their respective fields.

Mr. Speaker, it is my pleasure to honor Mr. Lindstone and his achievements, and wish him all the best to come in his travel and studies.

PERSONAL EXPLANATION

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. ROGERS of Michigan. Mr. Speaker, on the legislative day of Monday, September 13, 2004, the House had votes on H. Con. Res. 363, H. Res. 667, H. Res. 760. On House rollcall votes Nos. 441, 442, 443, I was unavoidably detained. Had I been present, I would have voted "yea" on all three.

COMMON SENSE AUTOMOBILE EFFICIENCY ACT OF 2004

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. RUPPERSBERGER. Mr. Speaker, today I am introducing legislation that provides a credit for the purchase of new qualified fuel cell, hybrid, or other alternative fuel motor vehicle.

The Common Sense Automobile Efficiency Act of 2004 encourages consumers to purchase environmentally friendly vehicles that will help reduce greenhouse gas emissions while simultaneously reducing our country's oil dependence. It repeals the phase-out of the Qualified Electric Vehicles Credit and Deduction for Clean Fuel-Vehicles so that 100% of the credit can be claimed through 2006. Consumers would receive a tax credit of up to $1,000 for hybrid gas-electric powered vehicles and $4,000 for fuel-cell vehicles.

Making our environment cleaner and reducing our dependence on foreign oil requires the participation of all stakeholders, including both consumers and manufacturers.

Cars, SUVs and other light trucks consume millions of barrels of oil every day and emit harmful amounts of carbon dioxide, a principal greenhouse gas. Passenger vehicles alone account for one-fifth of all U.S. carbon dioxide emissions. With significant fuel economy and low tailpipe emissions, alternative-fuel and advanced-technology vehicles help to reduce the environmental impact of driving an automobile. Getting more miles out of a gallon of gas means lessening our dangerous reliance on oil, lowering levels of key air pollutants, and saving consumers money at the gas pumps.

All Americans need a choice in buying cars that can increase their fuel-efficiency. While the average fuel economy of vehicles on the road is at a twenty-one year low, gasoline prices continue to strain business and family budgets. Americans now spend more than $500 million per day to fuel their cars and light trucks. Families deserve a more affordable way to get to work, school, vacation, home or any destination on the road. Businesses that rely on vehicles to function need the cost-efficiency of driving hybrid vehicles.

Although major automakers currently offer advanced technology and alternative fuel vehicles and plan to produce a full range of fuel-efficient options, including SUVs, mini vans, and pickup trucks, the cleanest vehicles available to the public should be more economical.

The tax incentives provided by this bill would not only save consumers money—but spur market demand for more fuel-efficient vehicles. As people around the country embrace cleaner, more efficient cars, American automobile manufacturers must continue to improve fuel efficiency in order not to lose market share and jobs. This bill would help automakers invest in the production of alternative fuel motor vehicles—and accelerate the introduction of newer models into the marketplace.

The Common Sense Automobile Efficiency Act provides a win-win situation for consumers, the economy, and the environment. It offers valuable incentives for the purchase and production of alternative vehicles and fuels—and enables consumers to help limit fuel consumption, reduce our dependence on foreign oil, and protect our air quality.

IN PRAISE OF SAM BUDNYK

HON. MARK FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. FOLEY. Mr. Speaker, I rise to praise Sam Budnyk, a remarkable coach in South Florida who is retiring this year as head football coach for the Cardinal Newman High School Crusaders in West Palm Beach.

After 43 years as the school's only head football coach ever, Coach Budnyk has decided to retire his position. He also coached men's basketball and women's softball and track over the course of his career.

As first coach and athletic director, Coach Budnyk was responsible for pushing both minority and women's rights in high school athletics in Palm Beach County.

In 1965, he hired the first African-American assistant football coach to work at a private school in the state. By 1967, he was the first coach in the county in an all-white high school to have a football game against the all-black John F. Kennedy High School. In 1973, he was recognized by the National Organization for Women for allowing the first girl in Palm Beach County to run varsity track.

Not only have his victories been represented on the playing field, they also have resonated through the student-athletes who went on to various college institutions on scholarships and completed their education successfully. As the winningest coach in Palm Beach County history, Coach Budnyk was responsible for sending at least three of his Crusader football players to the NFL.

Sam Budnyk is a legend in his own time among all those who have met him, learned from him, became better people because of him—including my own father, who had the honor of serving as his assistant coach in football, baseball, basketball and track in the late '60s.

Sam Budnyk will still contribute at Cardinal Newman by remaining its athletic director and by teaching there. But his presence on the football field will be missed.

I would like to congratulate and thank him for all his selfless years of giving that have affected countless Newman graduates.

PERSONAL EXPLANATION

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mrs. BIGGERT. Mr. Speaker, due to a prior commitment in my district, I missed the following rollcall votes yesterday: rollcall number 441 on passage of H. Con. Res. 363, rollcall number 442 on passage of H. Res. 667, and rollcall number 443 on passage of H. Res. 760. Had I been present, I would have voted "yea" on all of these votes.

HONORING RANCHO SANTA FE HISTORICAL SOCIETY'S 20TH ANNIVERSARY

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. CUNNINGHAM. Mr. Speaker, I would like to congratulate the Rancho Santa Fe Historical Society on their 20th anniversary, commemorating two decades of public service. The Society dedicates itself to preserving and documenting local history; while educating members of the community and visitors on such matters.

The Rancho Santa Fe Historical Society received national attention for its World War II Veterans Oral History Project. The Society has also published a book, Rancho Santa Fe: A California Village, which was just printed in its fifth edition. The book captures the distinctive beauty and an architectural quality of one of California's first planned communities through early and contemporary photographs.

In 1989 Rancho Santa Fe was designated a California State Historic Landmark. The Society provides educational tours and lectures to students of all ages, and graciously offers their archives to researchers. Also, via the Architectural Review Committee, the Society offers expertise and advice on the preservation of historic homes.

Mr. Speaker, I am delighted to share with you the contributions and accomplishments of the Rancho Santa Fe Historical Society. Their enthusiasm and earnest efforts over the past 20 years have contributed greatly to the community of Rancho Santa Fe.

HONORING DAVID D'ERAMO, PH.D.

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to honor David D'Eramo, Ph.D. on the occasion of his retirement as President and Chief Executive Officer of St. Francis Hospital and Medical Center.

Not only has Dr. D'Eramo led St. Francis through a period of tremendous change during his sixteen year tenure, he has extended the reach of critical programs and services to our communities through the development of St. Francis Care.

His leadership has gone well beyond the walls of the hospital through his volunteer service and the chairmanship of key civic organizations, such as the MetroHartford Chamber of Commerce and the Greater Hartford Arts Council.

On a national level, Dr. D'Eramo has been deeply involved in the development of health policy through leadership and service with the American Hospital Association, the Catholic Health Association, and the Association of American Medical Colleges.

Mr. Speaker, I ask my colleagues to join me in congratulating Dr. D'Eramo for his many accomplishments and for his contributions to the health and well being of the citizens of Connecticut and beyond.

ANNUAL DINNER OF ROFEH INTERNATIONAL AND THE NEW ENGLAND CHASSIDIC CENTER

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. FRANK of Massachusetts. Mr. Speaker, for many years I've had the great privilege of sharing with my colleagues and the nation the description of those who are being honored by ROFEH International and the New England Chassidic Center. This year, the dinner for these two valuable institutions will be held on November 14, and the awardees are Dr. Edwin H. Kolodny, and Mr. Daniel M. Wyner.

Dr. Kolodny will receive the ''ROFEH International Distinguished Service Award,'' for his very charitable service, and the great distinction he has achieved in the fields of birth defects, genetic diseases of the nervous system, and mental retardation and developmental disabilities.

The ''Man of the Year,'' Daniel Wyner, has performed outstanding service to the New England Chassidic Center and to the Greater Boston Jewish Community as a whole.

These two organizations, under the leadership of Grand Rabbi Levi Y. Horowitz, make extremely important contributions to the religious, cultural and social life of Greater Boston, and indeed have a relevant impact in the medical field. I am pleased to join in honoring Mr. Wyner and Dr. Kolodny, and I ask unanimous consent to include here biographies of both men as an example of the sort of valuable community service that we should be encouraging through appropriate recognition.

Dr. Edwin H. Kolodny is a renowned neurologist and geneticist. He is the Bernard A. and Charlotte Marden Professor of Neurology and Chairman of the Department of Neurology at the New York University School of Medicine and Director of its Division of Neurogenetics. He is a specialist in inherited metabolic and degenerative diseases of the nervous system and has made many contributions to the field of Jewish genetic diseases. He serves on many scientific advisory boards and has authored numerous articles in leading medical journals.

A native of Brookline, Massachusetts and graduate of the Boston Latin School, he received his A.B. from Harvard College (cum laude in Economics) and his M.D. from the NYU School of Medicine (with honors). Dr. Kolodny trained in Internal Medicine for 2 years at Bellevue Hospital in New York and completed his Neurology residency at the Massachusetts General Hospital in Boston. After 3 additional years of training in Neurochemistry at the NIH in Bethesda, Maryland, he returned to Boston and the Harvard Medical School where he rose to Professor of Neurology and Director of the Eunice Kennedy Shriver Center for Mental Retardation.

Dr. Kolodny is the recipient of numerous awards and honors for his work as a clinician, researcher and teacher. These include the Alpha Omega Alpha Award of the NYU School of Medicine, the Above and Beyond Award of the National Tay-Sachs and Allied Diseases Association, and listing in ''Best Doctors in the U.S.'' He has also served as a Visiting Professor at medical schools in Israel and elsewhere overseas.

Dr. Edwin Kolodny and his wife, Dr. Roselyn Kolodny, a pediatrician, have four children, Nancy Lieberman, Dr. Leonard Kolodny, Robin Leshem, and Noah Kolodny, two son-in-laws, Ralph and Erez, and two daughter-in-laws, Debby and Michelle, of whom they are equally proud, and fabulous grandchildren Naomi, Tamar, Benjamin, Daniel, and Sarah.

Dan Wyner is President of Shawmut Corporation, a fourth generation family business that manufactures innovative textile composites for the Automotive, Medical, Military and Industrial markets, with three plants in Massachusetts and Michigan. Dan has worked for Shawmut for over 23 years, working alongside his grandfather, father and most recently, one of his brothers.

In addition to his role at Shawmut, Dan is one of the founders of Omniflex LLC; a Western Massachusetts based technical film supplier, and currently serves as a director of Omniflex, which is a Shawmut Joint Venture. He is also one of the founders of PolyWorks LLC; a Rhode Island based low-pressure injection molding company and serves on its board of directors.

In addition to his business interest, Dan has worked to support a number of charitable organizations.

Over the past several years, Dan and his wife Lorna have been supporters of ROFEH International, helping in the development and renovation of ROFEH's residential facility for the benefit of families of Bone Marrow Transplant patients.

Dan presently serves on the board of trustees of the Rhode Island chapter of the Leukemia and Lymphoma Society as treasurer of that organization, and he and his wife Lorna are significant supporters of the Society, supporting both direct research projects, annual fundraising events, and recruiting for and participating in this year's Team in Training Cyclefest 100-mile bike ride.

Dan is also a member of the Board of Trustees of the Alperin Schechter Day School in Providence, RI where their daughter Madelyn is a fourth grade student. Dan is also a member of the Board of Overseers at the Beth Israel Deaconess Medical Center.

Dan and his wife support a number of other charitable causes, including the Fred Hutchinson Cancer Research Center, University of Washington Medical Center, Beth Israel Deaconess Hospital and the American Jewish Historical Society.

Dan is a graduate of Dartmouth College where he majored in Philosophy. He, together with his wife and daughter, live on a small horse farm in Rhode Island. In his spare time Dan plays tennis, pilots ultra-light aircraft and does some wheel-thrown pottery.

DON ARTH, LEADER IN MISSOURI AGRICULTURE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. SKELTON. Mr. Speaker, it has come to my attention that Don Arth of Malta Bend, Missouri, will soon retire from the Missouri Corn Merchandising Council and the Missouri Corn Growers Association Board. Let me take this means to pay tribute to this outstanding American who has contributed much to Missouri agriculture, especially the corn growers of our State.

Don Arth graduated from Corder High School in 1957 and worked for several years at Mason Chevrolet in Lexington, Missouri, and at Ford Motor Company in Claycomo, Missouri. With his brother Bob Arth and Uncles Lewis, John, and Frank Arth, he began farming in 1962 in the Missouri River bottoms of Waverly and Grand Pass, Missouri, an area known as White's Island. Don continues to farm these fields today with his youngest brother, Michael Arth of Grand Pass, Missouri.

Throughout his career in agriculture, Don has exhibited tremendous leadership in the corn producer community. He has served as a

board member and chairman of the Missouri Corn Merchandising Council and a board member of the Missouri Corn Growers Association. He also serves as Vice President of Mid-Missouri Energy, Inc., a producer-owned ethanol plant that is currently rising from the fields of Saline County, Missouri. Don was instrumental in reaching out to farmers throughout central Missouri to create Mid-Missouri Energy, Inc.

In addition to his positions in agriculture, Don is active in his community and is a man who cares deeply for his family. Since 1964, he has been a member of the Waverly Jaycees and since 1985 has been a member of the Waverly Lions Club, serving as president of both organizations. Don is a member of the Waverly Rural Fire Department and has served on the board for Lafayette County Regional Health Center for 12 years. Don has also served on the Carrollton Country Club board of directors and held the office of president of the board. Don is a member of St. Peter Catholic Church in Marshall, Missouri, and a member of the Knights of Columbus.

Don and his late wife Donna Lieser were married in Dover, Missouri, in 1964, and have two children and three grandchildren.

Mr. Speaker, through the years, I have been lucky to know Don Arth as a friend. He is truly an expert in Show-Me State agriculture and a role model for young Missourians. As he prepares to retire from these agricultural boards and to dedicate more time to his community and his family, I know that all members of the House will join me in paying tribute to this outstanding American.

TRIBUTE TO LTC (RET.) K. PAUL LEGRICE

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to LTC (Ret.) K. Paul LeGrice as he prepares to retire as the Director of Force Projection, United States Army, Fort Dix, New Jersey, effective September 30, 2004.

A true patriot, Paul tirelessly supported this nation's military through both his service in the military and as a key Department of the Army Civilian. He enlisted in the United States Army in 1962 and later received his commission in 1965. In February 1993, after serving 30 years in enlisted and officer status, Paul retired as a Lieutenant Colonel and began his service as the Director of Force Projection Directorate, Fort Dix, New Jersey.

In his role as Director, he constantly demonstrated his unparalleled ability to accomplish complex tasks in an outstanding fashion through his untiring diligence, uncanny foresight and exceptionally noteworthy leadership. His response to the events of September 11, 2001, demonstrated his true mettle. Paul provided the even-tempered, professional leadership required as Fort Dix successfully mobilized over 30,000 soldiers for both OCONUS combat missions and CONUS support missions in support of Operations Enduring Freedom, Iraqi Freedom and Noble Eagle.

As Ft. Dix continued its role as a major power projection platform, Paul took very personally his responsibility to ensure proper support of the mobilizing and demobilizing soldiers. Additionally, he constantly sought ways to improve and expand upon the Joint Installation Partnership between Ft. Dix, McGuire Air Force Base, and Naval Air Engineering Station Lakehurst to better serve our nation's military personnel. These joint installation projects all proved advantageous to the three bases and their personnel by efficiently consolidating activities while saving valuable tax dollars.

Thus, I am pleased to recognize the efforts and accomplishments of this outstanding American patriot. I congratulate and thank LTC (Ret.) K. Paul LeGrice for his 42 years of selfless service to this nation and wish him a happy retirement.

PERSONAL EXPLANATION

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. NETHERCUTT. Mr. Speaker, on Monday, September 13, I was unavoidably detained due to a prior obligation. Had I been present, I would have voted "yea" on rollcall vote No. 441 to suspend the rules and agree, as amended, to H. Con. Res. 363; "yea" on rollcall vote No. 442 to suspend the rules and agree to H. Res. 667; and "yea" on rollcall vote No. 443 to suspend the rules and agree to H. Res. 760.

TRIBUTE TO MR. CHARLES STRANG

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. BROWN of South Carolina. Mr. Speaker, I rise today to pay tribute to Mr. Charles "Chuck" Strang, who on September 29, 2004, will mark 20 years of service with the Servicemembers' and Veterans' Group Life Insurance programs. Chuck is the director of the Office of Servicemembers' Group Life Insurance (OSGLI), the office established by the Prudential Insurance Company of America to administer VA's Servicemembers' and Veterans' Group Life Insurance programs (SGLI and VGLI).

Following the example set by his family's military service, Chuck served in the U.S. Army from 1966 through 1969. Trained as a Communication Center Specialist, he spent his entire military career in Nuremburg, Germany. In 1982, he earned an Associate's Degree in Occupational Studies with a major in Life and Health Insurance from The College of Insurance in New York City.

Chuck's distinguished career with OSGLI began on September 24, 1984, as the manager of New Business and Insurance Services. Through various managerial positions, he became a recognized authority on the many details of veterans' insurance programs, and was promoted to Director in 1993.

Chuck's accomplishments at OSGLI are many. Some noteworthy program enhancements he has overseen include: an increase in servicemembers' insurance coverage from $35,000 to $250,000; the addition of insurance coverage for family members; reductions in premiums for each of the veterans' insurance programs; and allowing terminally ill insureds to receive up to 50 percent of their Servicemembers' or Veterans Group Life Insurance coverage in a lump sum.

Through nationwide toll-free telephone service, Internet access to personal accounts, design and installation of updated computer systems, and imaging capabilities, Chuck has instituted changes that have improved service to policyholders and their families.

Mr. Speaker, I have spent all my life in the business world and it is evident to me that owing to Chuck Strang and the Office of Servicemembers' Group Life Insurance, VA's SGLI and VGLI insurance programs are two of the best-managed in the government. I am pleased to pay tribute to Chuck's professionalism and dedication to our Nation's servicemembers, veterans, and their families.

PERSONAL EXPLANATION

HON. JOHN R. CARTER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. CARTER. Mr. Speaker, during rollcall votes No. 441, H. Con. Res. 363, the Human rights/civil liberties violations by Syria, 442, H. Res. 667, the Expressing support for freedom in Hong Kong, and 443, H. Res. 760, the Condemning the terrorist attacks in Russia, I was unavoidably detained. If I had been present, I would have voted "yea."

A TRIBUTE TO THE RANCHO SANTA FE HISTORICAL SOCIETY'S 20TH ANNIVERSARY

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. CUNNINGHAM. Mr. Speaker, I would like to congratulate the Rancho Santa Fe Historical Society on their 20th Anniversary, commemorating two decades of public service. The Society dedicates itself to preserving and documenting local history; while educating members of the community and visitors on such matters.

The Rancho Santa Fe Historical Society received national attention for its World War II Veterans Oral History Project. The Society also published a book, Rancho Santa Fe: A California Village, which was just printed in its fifth edition. The book captures the distinctive beauty and the architectural quality of one of California's first planned communities through early and contemporary photographs.

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Mr. Speaker, I am delighted to share with you the contributions and accomplishments of the Rancho Santa Fe Historical Society. Their enthusiasm and earnest efforts over the past

20 years have contributes greatly to the community of Rancho Santa Fe.

REBUILD LIVES AND FAMILIES RE-ENTRY ENHANCEMENT ACT OF 2004

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. CONYERS. Mr. Speaker, I am pleased to introduce the Rebuild Lives and Families Re-Entry Enhancement Act of 2004. This legislation will be the next important step in establishing policy to help the men and women emerging from our Nation's prisons and jails re-integrate into society and rebuild their lives.

While our national crime rates have fallen over the last decade, we have seen an unprecedented explosion in our prison and jail populations. Over two million prisoners are now held in Federal and State prisons and local jails. Each year, approximately 650,000 people return to their communities following a prison or jail sentence, resulting in more than 6.7 million under some form of criminal justice supervision.

Reentry refers to the return of incarcerated individuals from America's jails and prisons to the community and their reintegration into society. There is a pressing need to provide these individuals with the education and training necessary to obtain and hold onto steady jobs, undergo drug treatment, and get medical and mental health services. However, they are confronted with the ''prison after imprisonment''—a plethora of seemingly endless obstacles and impediments which stymie successful re-integration into society. These obstacles have substantially contributed to the historically high rate of recidivism, with two-thirds of returning prisoners having been re-arrested for new crimes within 3 years.

This legislation is designed to assist high-risk, high-need offenders who have served their prison sentences, but who pose the greatest risk of reoffending upon release because they lack the education, job skills, stable family or living arrangements, and the substance abuse treatment and other mental and medical health services they need to successfully reintegrate into society. Title I of the bill reauthorizes and enhances our early adult and juvenile reentry programs to broaden the availability of critical ex-offender services, while Title II addresses the substantive federal barriers to successful reentry. Both titles include provisions requiring that the funded programs be rigorously evaluated and the results widely disseminated, so that reentry programs can be modified as needed, to ensure that recidivism is reduced and public safety enhanced.

A recent study by Peter D. Hart Research Associates reveals that Americans strongly favor rehabilitation and reentry programs as the best method of insuring public safety. With this changing paradigm in public opinion, the opportunity is ripe to sensibly reassess the role and impact of criminal justice policies. This legislation translates this emerging public perception into balanced policies and procedures which dismantle the structural impediments to successful reintegration into society.

TRIBUTE TO MR. JOEL D. HEDENSTROM

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. SKELTON. Mr. Speaker, let me take this means to honor and pay tribute to Mr. Joel D. Hedenstrom who retired September 3, 2004, from the United States Army Training and Doctrine Command at Fort Monroe, Virginia, after more than 35 years of service to our Nation.

Mr. Hedenstrom served in the United States Army from 1969 until 1973 with the United States Army Military Personnel Center in Alexandria, Virginia. His military service included an assignment with the Office of the Secretary of Defense to support a study-group that established the Survivor Benefit Plan.

Following his military service, he resumed duties with the United States Military Personnel Center, in a civilian capacity. He later accepted a position with the Secretary of the Army's Chief of Legislative Liaison, where he subsequently became a team chief and carried an additional duty as the Congressional point of contact for mass casualties.

In 1988, Mr. Hedenstrom was selected to serve as Congressional Affairs Specialist for the United States Army Training and Doctrine Command. Mr. Hedenstrom displayed the highest level of expertise in his field and was respected throughout the Command and the Department of the Army for his sound guidance and advice.

In recognition of his dedicated service, he was awarded the Meritorious Civilian Service Award for his outstanding performance of duties. I commend Mr. Hedenstrom for 35 years of honorable service to the Nation and the United States Army and wish him all the best in his future endeavors.

TRIBUTE TO MR. CECIL BROOKS III

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. PAYNE. Mr. Speaker, I rise today to recognize a cultural innovator in my district, Mr. Cecil Brooks III. A world renowned jazz artist, drummer, band leader, composer, arranger, and record producer, Mr. Brooks and his wife Adreena have recently established a jazz club in West Orange. Opening in late June 2003, Cecil's is quickly establishing a reputation as one of the most prestigious addresses in northern New Jersey.

Mr. Brooks is responsible for bringing internationally acclaimed entertainers to our community, including renowned jazz saxophonist Don Braden and American comic legend Bill Cosby.

Mr. Brooks achieved international prominence as a Goodwill Ambassador, and is considered one of the most popular and innovative figures in the world of modern jazz, as well one of the most prolific record producers and band leaders on the scene today. He has been credited with numerous recordings which have been ranked in the Top Ten of the Gavin National Radio Airplay Chart and has worked for several labels including Muse and Highnote/Savant records.

He has been recognized in the Downbeat Magazine Critic's Poll as ''Producer Deserving Wider Recognition,'' and has performed on world tour with jazz icons such as Houston Person and Etta James, Pharoah Sanders, Stanley Turrentine, the Mingus Dynast Big Band, the Dizzy Gillespie Reunion Band, and was the drummer for The Bill Cosby Show.

Mr. Speaker, please join me in extending my thanks to my neighbors Cecil and Adreena Brooks for their contributions to the civic and cultural life of our community, and I invite my colleagues to join me in sending our congratulations for their outstanding achievements which celebrate jazz, the truly American art form, and have brought such positive recognition to the city of West Orange.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 5006) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2005, and for other purposes:

Mr. CARDIN. Mr. Chairman, each year the Labor-HHS-Education appropriations bill is one of the most difficult measures for this body to complete. One reason is that it is often the costliest of our spending bills. Another is that the programs it funds are the most critical to the well-being of our citizens.

I want to thank the members of the Appropriations Committee, particularly Chairman YOUNG, Ranking Member OBEY, and Subcommittee Chairman REGULA for their hard work on this measure, particularly in light of the budgetary limitations on what we can accomplish for many vital domestic programs.

I am pleased that the House has increased by $22 million the bill's funding for the Low Income Home Energy Assistance Program (LIHEAP), and I want to thank the gentleman from Vermont, Mr. SANDERS, for his leadership and my colleagues on both sides of the aisle for their support of his amendment.

I also want to thank Mr. OBEY for his leadership on the key issue of overtime pay. American workers deserve to be paid fairly for the work they perform, and I am proud that the House has voted to eliminate damaging aspects of the Labor Department's rule.

This is a bill that in many ways improves upon the President's budget proposals, and I intend to support it. However, I am concerned about the low funding levels in several areas that I hope can be improved upon in conference.

In the area of education, this bill does not do enough for our Nation's elementary and secondary school students. In my home state of Maryland, more than 100 schools do not

meet state standards required by the No Child Left Behind Law. Even though many school districts find themselves unable to meet the goals of the law, the bill before us today provides $9.5 billion less than the funding promised. Today's bill also falls $2.5 billion short of the $13.6 billion promised last year for special education when IDEA was reauthorized last year. I would also hope that we can improve upon the higher education funding, particularly in the areas of Pell Grants and Perkins Loans, so that lower and middle-income students can continue to enroll in public and private colleges across the Nation.

This bill also shortchanges Americans already in the labor market. Eight million Americans who want to work cannot find jobs, but the job training funds do not keep pace with inflation. In fact, compared FY 2001, it cuts job training funding in real terms by over $700 million. I would hope that we can improve upon these levels in conference.

Finally, we must increase funding for several programs in the Department of Health and Human Services. Last month, we learned that the number of uninsured Americans reached 45 million, yet this bill reduces Maternal and Child Health Block Grants that fund care for uninsured women and children, and it eliminates the Community Access Program, which has funded grants across the Nation for preventive and primary care. This bill also cuts vital Ryan White AIDS Care programs, and it does not adequately fund the lifesaving NIH research that Americans diagnosed with Alzheimer's, cancer, diabetes, and other debilitating diseases are depending upon. Unfortunately, this bill contains an increase of only 2.6% in NIH funding—less than medical research inflation.

I hope, as this House bill moves forward in conference, that the funding levels for these critical needs can be increased to a more realistic level.

VICTIMS COMPENSATION FUND EXTENSION ACT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mrs. MALONEY. Mr. Speaker, in the immediate aftermath of the September 11th terrorist attacks the Congress created the Victims Compensation Fund (VCF) to provide compensation for victims of 9/11. This fund provided aid to the families of 9/11 victims and to individuals who suffered personal injury. Among other things, aid from the fund pays for medical expenses and lost wages. In return for accepting these funds, recipients relinquished rights to any future litigation. The fund had a deadline for applicants of December 22, 2003.

At the deadline, close to 100% of the families who lost a loved one had filed with the fund, but many individuals who were injured as a direct result of 9/11 had not. After the filing, many of the injured were denied benefits, despite a clear need.

The main reasons for not filing applications included people who did not know they were eligible as well as others whose injuries were late-onset. There are literally hundred of individuals who are now just developing career-ending injuries—such as pulmonary and respiratory ailments—but are not eligible to receive assistance because they developed their symptoms after the deadline.

Largely as a result of the VCF's restrictions on applicants, 1,755 of the 4,430 personal injury claims considered were denied. While there was some leeway, the rules required workers to have arrived at Ground Zero within 96 hours of the attack and would have needed to seek medical treatment within 72 hours. This is reasonable for rescue workers who suffered immediate injuries, but leaves no recourse for individuals with late-onset injuries or who arrived after September 15, 2001 to assist in the recovery effort and are now suffering from injuries.

In order to care for the individuals who are now just developing physical injuries and to provide an opportunity for injured individuals who did not know they were eligible, I am introducing the Victims Compensation Fund Extension Act.

This bill would: Amend eligibility rules so that responders to the 9/11 attacks who arrived later than the first 96 hours could be eligible if they experienced illness or injury from their work at the site. Amend eligibility rules so that those who did not seek immediate medical verification for their illness or injury from the disaster, but who have since obtained medical evidence, would be eligible. Extend the deadline for applications to allow those with either late-onset illness from the disaster or those who were never informed of their eligibility for the Victim Compensation Fund to consider applying.

HONORING JERRY RABER FOR HER CONTRIBUTIONS TO THE COMMUNITY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. STARK. Mr. Speaker, I rise today to honor Jerry Raber, a resident of Newark, California. The city of Newark will pay tribute to Jerry on September 16, 2004 at the dedication of Jerry Raber Ash Street Park.

All who know her describe Jerry as a truly special woman. For over thirty years, Jerry has been a tireless advocate fighting to meet the needs of children in her community.

When a fire devastated the original Ash Street Youth Center in March 1969, Jerry pushed and pursued the city to replace the building. Through her leadership and perseverance, she garnered support from volunteers and local contractors to help rebuild the center. Service clubs, such as Kiwanis and Rotary donated funds for play equipment while local contractors contributed roofing, concrete and other building materials. Area businesses and restaurants joined forces and placed donation jars in their establishments to collect funds that helped to complete the softball field.

Along with city funding, federal grants, generous grassroots donations and hard work, the Ash Street Youth Center was rebuilt. The Center was ready to serve the community with programs such as ballet, cake decorating, adult education, secretarial courses, storybook hours, book exchanges, arts and crafts, a game lending library and a horse clinic.

In June 1971, Ash Street Park joined the Ash Street Youth Center and services to the community were expanded. A wide variety of recreational activities included picnicking, softball, flag football, Easter egg hunts, supervised overnight camping and even a pet parade.

Jerry Raber continued to push for further services for the community and assisted in the expansion of Ash Street Park. In 1992, Jerry, along with area residents, school officials and PTA members, formed a non-profit organization, Friends for Ash Street Community Enrichment, better known as FACE. FACE, with the city of Newark, started a new balanced lunch and recreation program.

Children enrolled in the program received free hot lunches and the opportunity to participate in arts and crafts, sports games, lessons on public safety awareness and teambuilding.

Jerry Raber's drive and persistence to make Newark a better place for children has been recognized and appreciated through the years. She has many markers of success she can point to with pride. Her accomplishments have earned her the honorary title ''Mayor of Old Town''. I join in thanking Jerry for her tireless efforts and investment in the community to make a difference in the lives of others.

TRIBUTE TO PAUL AND KATE TAUER

HON. BOB BEAUPREZ

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. BEAUPREZ. Mr. Speaker, I rise today to recognize two distinguished Coloradoans who reside in my district. I am pleased to announce that Paul and Kate Tauer, of Aurora, Colorado, were recipients of the 2004 National Excellence in Parenting Award presented by the National Parents' Day Council.

I believe that commitment to family and community is a core value all Americans should share. Unfortunately, we rarely take the time to recognize individuals who place their own interests behind those of their family and community.

Paul and Kate Tauer have been married for 47 years and are the parents of 8 children and the grandparents of 13. They have been tireless in their volunteer efforts, in which their children take an active role. The Tauers have served on countless committees and participate in a myriad of volunteer endeavors. Together they started the Aurora Asian Pacific Partnership and both serve on the Mental Health Center Board. Paul recently retired as a four-term Mayor of Aurora, the third most populous city in Colorado. Following in the footsteps of his father, Paul's son Ed was elected to succeed him as Mayor of Aurora.

This award provides an opportunity to recognize and promote parenting as a central vocation for our families and our communities. It is my genuine honor to be able to represent Paul and Kate Tauer. They are distinguished citizens, activists and parents—there is no higher or more honorable calling.

HONORING LIEUTENANT GENERAL ROBERT R. DIERKER, U.S. AIR FORCE

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mrs. TAUSCHER. Mr. Speaker, on October 8, 2004, Lieutenant General Robert R. Dierker, U.S. Air Force, will complete his tour of duty as the Deputy Commander, United States Pacific Command. At the end of his tour, General Dierker will retire from the Air Force after 32 years of service to our nation.

Robert Dierker represents all that is good about the United States military. He is a distinguished graduate of the United States Air Force Academy. He has served honorably throughout his career in various key operational and staff positions in the United States, Southeast Asia, Northeast Asia, and Europe. And he has commanded a fighter group and a fighter wing.

Lieutenant General Dierker is himself an accomplished command pilot. He has logged more than 2,500 flying hours, primarily in tactical aircraft, and is a master parachutist with more than 130 military jumps.

Mr. Chairman, on behalf of the United States Congress and the nation, I take great pride in formally recognizing the exceptionally meritorious service of Lieutenant General Robert R. Dierker.

PAYING TRIBUTE TO KATHY GRISWOLD-McKEAN

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. TANCREDO. Mr. Speaker, on August 23, 2004, one of my constituents, Mrs. Kathy Griswold-McKean 53, tragically and unexpectedly lost her life in a single-car accident. Kathy was a true patriot, devoted to both this country and the lives of people in general.

Kathy had a positive outlook that was simply infectious. It emanated from her and welled up in others bringing out the best in them. She and her husband, Andy McKean, were together for 16 years and rarely did I ever see one without the other. Together they created the Complete Cycle Center through an Environmental Protection Agency grant where they showcased recycled products.

In addition to educating others about recycling, they worked on the Earning by Learning program to promote children to read. They also worked on various political campaigns, including my own, with the same unending energy and enthusiasm that they put into every endeavor. Kathy could be counted on to bring out the best in everyone around her.

Kathy and her husband were the driving force behind legislation in the 106th Congress which I sponsored, and more than a dozen other members cosponsored. The resolution, H. Con. Res. 376, Recognized Liberty Day.

Andy and Kathy sponsored an education project, which began March 16, 1998, of the same name. That initiative encouraged school children to learn more about the founding documents of our great nation, and with the passage of that resolution, their efforts were officially recognized by the United States Congress.

Together, Kathy and Andy promoted Liberty Day in order to preserve and pass on the great tradition of America's history, freedom and way of life. Kathy's passing, while on an errand to deliver mail to supporters of this project was a tragedy, but her commitment to the cause will be remembered and honored by many.

Kathy is survived by her Husband, her parents and her brother.

RECOGNIZING SENATOR JAMES L. MATHEWSON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. SKELTON. Mr. Speaker, a distinguished career in public service is coming to an end in the Show-Me State. Missouri State Senator James L. (Jim) Mathewson, a member of the State Senate from Sedalia, Missouri, will retire at the end of the year. He has served the people of the 21st District since 1981.

Senator Mathewson was born and raised in Warsaw, Missouri. After graduating from Warsaw public schools, he attended Redding College and then California State University at Chico.

Before being elected to the state Senate, Jim Mathewson served in the Missouri House of Representatives. The people of his district chose to send him back to the state House in 1976 and 1978. First elected to the Missouri Senate in 1980, Senator Mathewson is currently serving the people of the 21st district for his fourth term. Earning the respect of his party, Senator Mathewson was elected Majority Floor Leader of the Senate in 1984 and 1986. He earned unanimous support among his fellow senators in 1989 and was elected the President Pro Tem of the Missouri Senate. He remained in this position through 1996.

Through the years, Senator Mathewson has been successful in many impressive legislative initiatives. He is admired for his knowledge and courage. When the history of the Missouri Senate is written of this era, the name of Senator James Mathewson will have a prominent role. I am proud to call him my friend.

Mr. Speaker, I am sure the Members of the House will join me in thanking Senator Mathewson for his years of public service. I wish the Senator and his wife, Doris, all the best in the years ahead.

Daily Digest

HIGHLIGHTS

Senate passed H.R. 4567, Homeland Security Appropriations.

Senate

Chamber Action

Routine Proceedings, pages S9155–S9240

Measures Introduced: Eight bills and two resolutions were introduced, as follows: S. 2797–2804, and S. Res. 424–425. **Pages S9220–21**

Measures Reported:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals—2005." (S. Rept. No. 108–338)

S. 2639, to reauthorize the Congressional Award Act. (S. Rept. No. 108–339)

S. 2803, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2005. (S. Rept. No. 108–340)

S. 2804, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2005. (S. Rept. No. 108–341) **Page S9220**

Measures Passed:

Homeland Security Appropriations: By a unanimous vote of 93 yeas (Vote No. 184), Senate passed H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, after taking action on the following amendments proposed thereto:

Pages S9167–S9213

Adopted:

Ensign Amendment No. 3598, to increase the amount appropriated for baggage screening activities. **Page S9183**

Dodd/Specter Amendment No. 3630, to increase the amount provided for fire department staffing assistance grants, and to provide offsets.

Pages S9167–71, S9183–84

Bingaman/Domenici Amendment No. 3639, to provide for continued support by the New Mexico National Guard for the performance of the vehicle and cargo inspection activities of the Department of Homeland Security. **Page S9184**

Boxer/Carper Amendment No. 3641, to provide for intercity passenger and freight security grants.

Pages S9187–88

Cochran (for Allard/Akaka) Amendment No. 3589, to provide for a report on common geospatial awareness of critical infrastructure. **Page S9194**

Subsequently, the amendment was modified.

Page S9209

Cochran (for Mikulski) Amendment No. 3611, to ensure the fiscal year 2004 overtime cap applies to certain Customs Service employees. **Page S9194**

Cochran (for Boxer) Amendment No. 3634, to require reports on the Federal Air Marshals program.

Page S9194

Cochran (for Landrieu) Amendment No. 3603, to require a GAO report on employment discrimination complaints relating to employment in airport screener positions in the Transportation Security Administration. **Page S9194**

Cochran (for Boxer) Amendment No. 3640, to protect the security of the Federal Air Marshals.

Page S9195

Cochran (for Boxer/Schumer) Amendment No. 3642, to require a report on protecting commercial aircraft from the threat of man-portable air defense systems. **Page S9195**

Cochran (for Reed) Amendment No. 3633, to require a report on processes for issuing required permits for proposed liquefied gas marine terminals.

Page S9194

Cochran (for Leahy/Hatch) Amendment No. 3638, to retain the uniqueness of the United States Secret Service within the Department of Homeland Security. **Pages S9195–96**

Cochran (for Feingold/Leahy) Amendment No. 3635, to provide a data-mining report to Congress.

Pages S9194–95

Cochran (for Dole) Amendment No. 3645, to provide that funds appropriated to the Bureau of Customs and Border Protection be used to enforce the provisions relating to textile transshipments provided for in the Customs Border Security Act of 2002.

Page S9195

Baucus Amendment No. 3636, to provide emergency disaster assistance to agricultural producers in Florida and other States due to losses from hurricanes, droughts, freezes, floods, and other natural disasters. **Pages S9184–87, S9200–01**

Clinton/Schumer Amendment No. 3651, to require the Federal Emergency Management Agency to allocate at least $4,450,000 of any funds previously made available in response to the September 11, 2001 attacks in New York City for continued mental health counseling services for emergency services personnel requiring additional assistance as a result of the September 11, 2001 terrorist attacks. **Page S9201**

Nelson (FL) Amendment No. 3607, to provide funds for the American Red Cross. **Page S9208**

Cochran (for Collins/Pryor) Amendment No. 3614, to set aside $50,000,000 from the amount appropriated for law enforcement terrorism prevention grants to identify, acquire, and transfer homeland security technology, equipment, and information to State and local law enforcement agencies. **Page S9208**

Cochran (for Stabenow) Amendment No. 3647, to allow State Homeland Security Program grant funds to be used to pay costs associated with the attendance of part-time and volunteer first responders at terrorism response courses approved by the Office for State and Local Government Coordination and Preparedness. **Page S9209**

Cochran (for Shelby) Amendment No. 3648, to require the President's fiscal year 2006 budget to include an amount sufficient for funding a certain level of maritime patrol capability. **Page S9209**

Cochran (for Roberts) Amendment No. 3643, to express the sense of the Senate concerning the American Red Cross and Critical Biomedical Systems. **Page S9208**

Cochran (for Talent/Bond) Amendment No. 3646, to express the sense of the Senate that the Director of the Office for State and Local Government Coordination and Preparedness be given limited authority to approve requests from State Homeland Security Directors to reprogram Federal homeland security grant funds to address specific security requirements based on credible threat assessments. **Page S9209**

Cochran (for Murkowski) Amendment No. 3644, to encourage the Secretary of Homeland Security to place special emphasis on the recruitment of American Indians, Alaska Natives, and Native Hawaiians into Disaster Assistance Employee cadres maintained by the Emergency Preparedness and Response Directorate. **Page S9208**

Reid Modified Amendment No. 3653, to provide funds for transportation worker identification credentialing and for tracking trucks carrying hazardous material. **Page S9209**

Cochran (for Durbin/Akaka) Amendment No. 3657, to provide for reporting by the Chief Financial Officer and the Chief Information Officer of the Department of Homeland Security. **Page S9209**

Cochran (for Domenici) Amendment No. 3658, to make a technical correction. **Page S9209**

Cochran (for Talent) Amendment No. 3659, to require the Secretary of Agriculture to deploy disaster liaisons when requested by a Governor or appropriate State agency in a federally declared disaster area. **Page S9209**

Rejected:

Corzine Modified Amendment No. 3619, to appropriate an additional $70,000,000 to enhance the security of chemical plants and to provide an offset. (By 48 yeas to 47 nays (Vote No. 176), Senate tabled the amendment.) **Pages S9179–81**

Dayton Amendment No. 3629, to ensure the continuation of benefits for certain individuals providing security services for Federal buildings. (By 49 yeas to 45 nays (Vote No. 177), Senate tabled the amendment.) **Pages S9181–82**

Kennedy Amendment No. 3626, to require the President to provide to Congress a copy of the Scowcroft Commission report on improving the capabilities of the United States intelligence community. (By 49 yeas to 45 nays (Vote No. 180), Senate tabled the amendment.) **Pages S9206–07**

Clinton Amendment No. 3631, to require the Secretary of Homeland Security to allocate formula-based grants to State and local governments based on an assessment of threats and vulnerabilities and other factors that the Secretary considers appropriate, in accordance with the recommendation of the 9/11 Commission. (By 54 yeas to 39 nays (Vote No. 183), Senate tabled the amendment.) **Pages S9171–72, S9173–74, S9206, S9208**

Withdrawn:

Nelson (FL)/Graham (FL) Amendment No. 3652, to provide supplemental disaster relief assistance for agricultural losses in the State of Florida resulting from Hurricanes Charley and Frances. **Pages S9202–04**

During consideration of this measure today, the Senate also took the following action:

By 50 yeas to 45 nays (Vote No. 175), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 302(f) of the Congressional Budget Act of 1974, with respect to Mikulski Amendment No. 3624, to increase the amount appropriated for firefighter assistance grants. Subsequently, the point of order that the amendment would provide spending in excess of the subcommittee's 302(b) allocation was sustained, and the amendment thus fell. **Pages S9176–77**

By 44 yeas to 50 nays (Vote No. 178), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 302(f) of the Congressional Budget Act of 1974, with respect to Clinton/Schumer Amendment No. 3632, to appropriate an additional $625,000,000 for discretionary grants for high-threat, high-density urban areas. Subsequently, the point of order that the amendment would provide spending in excess of the subcommittee's 302(b) allocation was sustained, and the amendment thus fell. **Pages S9172–73, S9174–76, S9182**

By 48 yeas to 47 nays (Vote No. 179), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 501(b) of H. Con. Res. 95, Fiscal Year 2004 Congressional Budget Resolution, with respect to Byrd Amendment No. 3649, to provide funds for the Transportation Security Administration, United States Coast Guard, and the Office of State and Local Government Coordination and Preparedness. Subsequently, the point of order that the amendment would increase spending in excess of levels permitted by H. Con. Res. 95, was sustained, and the amendment thus falls. **Pages S9200–02**

By 43 yeas to 51 nays (Vote No. 181), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 302(f) of the Congressional Budget Act of 1974, with respect to Schumer Amendment No. 3656, to increase funding for rail and transit security grants. Subsequently, the point of order that the amendment would provide spending in excess of the subcommittee's 302(b) allocation was sustained, and the amendment thus fell. **Pages S9204–05, S9207**

By 44 yeas to 49 nays (Vote No. 182), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 302(f) of the Congressional Budget Act of 1974, with respect to Schumer Amendment No. 3655, to appropriate an additional $350,000,000 to improve the security at points of entry into the United States. Subsequently, the point of order that the amendment would provide spending in excess of the subcommittee's 302(b) allocation was sustained, and the amendment thus fell.

Pages S9205–06, S9207–08

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Cochran, Stevens, Specter, Domenici, McConnell, Shelby, Gregg, Campbell, Craig, Byrd, Inouye, Hollings, Leahy, Harkin, Mikulski, Kohl, and Murray. **Page S9213**

Honoring Former President William Jefferson Clinton: Senate agreed to S. Res. 425, honoring former President William Jefferson Clinton on the occasion of his 58th birthday. **Pages S9237–39**

Small Business Extension: Senate passed H.R. 5008, to provide an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through September 30, 2004, clearing the measure for the President. **Pages S9239–40**

Military Construction Appropriations Agreement: A unanimous-consent agreement was reached providing for consideration of S. 2674, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, at 9:45 a.m., on Wednesday, September 15, 2004; that the two managers' amendments at the desk be agreed to and no other amendments be in order; that there be one hour of debate equally divided, and at the conclusion or yielding back of time, the bill be returned to the Senate calendar; provided further; that the Senate then proceed to H.R. 4837, House companion measure, that all after the enacting clause be stricken, the text of S. 2674, as amended, be inserted in lieu thereof, the bill be read a third time and the Senate proceed to a vote at a time to be determined by the Majority Leader in consultation with the Democratic Leader; that upon passage of the bill, the Senate insist upon its amendment, request a conference with the House thereon, and the Chair be authorized to appoint conferees. **Page S9237**

Haiti Economic Recovery Opportunity Act—Agreement: A unanimous-consent agreement was reached providing that the Senate request the House to return the papers with respect to S. 2261, to expand certain preferential trade treatment for Haiti. **Page S9237**

Messages From the House: **Pages S9217–18**

Measures Referred: **Page S9218**

Executive Communications: **Pages S9218–20**

Additional Cosponsors: **Pages S9221–22**

Statements on Introduced Bills/Resolutions: **Pages S9222–31**

Additional Statements: **Pages S9216–17**

Amendments Submitted: **Pages S9231–36**

Authority for Committees to Meet: **Pages S9236–37**

Privilege of the Floor: **Page S9237**

Record Votes: Ten record votes were taken today. (Total—184)

Pages S9177, S9181–82, S9202, S9207–08, S9212

Adjournment: Senate convened at 9:45 a.m., and adjourned at 11:18 p.m., until 9:45 a.m., on Wednesday, September 15, 2004. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S9240.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: INTERIOR/ AGRICULTURE/TRANSPORTATION AND TREASURY

Committee on Appropriations: Committee ordered favorably reported the following bills:

An original bill (S. 2804) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2005;

An original bill (S. 2803) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2005; and

An original bill making appropriations for the Departments of Transportation and Treasury, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 2005.

LAND BILLS

Committee on Energy and Natural Resources: Subcommittee on Public Lands and Forests concluded a hearing to examine S. 2532, to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, S. 2723, to designate certain land in the State of Oregon as wilderness, and S. 2709, to provide for the reforestation of appropriate forest cover on forest land derived from the public domain, after receiving testimony from Senators Reid and Ensign; Representative Gibbons; Mark Rey, Under Secretary of Agriculture for Natural Resources and Environment; Rebecca W. Watson, Assistant Secretary of the Interior for Land and Minerals Management; Mayor Linda Malone, Sandy, Oregon; Jay Ward, Oregon Natural Resources Council, Portland; Jason Spadaro, SDS Lumber Company, Bingen, Washington; Chris DiStefano, International Mountain Bicycling Association, Boulder, Colorado; Michael Newton, Oregon State University Department of Forest Science, Philomath; and John Hiatt, Red Rock Audubon Society, Las Vegas, Nevada, on behalf of the Nevada Wilderness Coalition.

9/11 COMMISSION HUMAN CAPITAL RECOMMENDATIONS

Committee on Governmental Affairs: Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia concluded a hearing to examine and discuss legislative and administrative options to address human capital recommendations of the National Commission on Terrorist Attacks Upon the United States (9/11 Commission), focusing on improving the presidential appointments process for national security positions, establishing a single agency that conducts security clearance background investigations for U.S. personnel, and providing some additional personnel flexibilities to the Federal Bureau of Investigation to reflect its increased counterterrorism and intelligence responsibilities, after receiving testimony from Fred Fielding, and Jamie S. Gorelick, both Commissioners, National Commission on Terrorist Attacks Upon the United States; Mark Steven Bullock, Assistant Director, Administrative Services Division, Federal Bureau of Investigation, Department of Justice; John A. Turnicky, Special Assistant to the Director of Central Intelligence for Security, Central Intelligence Agency; J. Christopher Mihm, Managing Director of Strategic Issues, Government Accountability Office; Paul C. Light, New York University Robert F. Wagner School of Public Service and the Brookings Institution, C. Morgan Kinghorn, National Academy of Public Administration, and Max Stier, Partnership for Public Service, all of Washington, D.C.; and Doug Wagoner, Information Technology Association of America Security Clearances Task Group, Arlington, Virginia.

GROUP PURCHASING ORGANIZATIONS

Committee on the Judiciary: Subcommittee on Antitrust, Competition Policy and Consumer Rights concluded a hearing to examine maintaining innovation and cost savings relating to hospital group purchasing, focusing on maintaining a group purchasing organization industry that helps hospitals realize significant savings on the best products for their patients, after receiving testimony from Robert Betz, Health Industry Group Purchasing Association, Arlington, Virginia; Joe E. Kiani, Masimo Corporation, Irvine, California; and David A. Balto, Robins, Kaplan, Miller and Ciresi LLP, Washington, D.C.

NOMINATION

Select Committee on Intelligence: Committee concluded a hearing to examine the nomination of Porter J. Goss, of Florida, to be Director of Central Intelligence, after the nominee, who was introduced by Senators Graham (FL) and Nelson (FL), testified and answered questions in his own behalf.

MANDATORY RETIREMENTS

Special Committee on Aging: Committee concluded a hearing to examine mandatory retirement age rules, anti-age-discrimination laws in the private sector, and technology-induced demand and projected worker shortages, after receiving testimony from Abby L. Block, Deputy Associate Director, Center for Employee and Family Support Policy, Office of Personnel Management; Eugene R. Freedman, National Air Traffic Controllers Association, and Jagadeesh Gokhale, Cato Institute, both of Washington, D.C.; Russell B. Rayman, Aerospace Medical Association, Alexandria, Virginia; and Joseph Eichelkraut, Southwest Airlines Pilots' Association, Dallas, Texas.

House of Representatives

Chamber Action

Measures Introduced: 8 public bills, H.R. 5071–5078; and; 9 resolutions, H.J. Res. 103; H. Con. Res. 491–493, and H. Res. 771–775 were introduced. **Page H7138**

Additional Cosponsors: **Page H7138**

Reports Filed: Reports were filed today as follows:

H.R. 2971, to amend the Social Security Act to enhance Social Security account number privacy protections, to prevent fraudulent misuse of the Social Security account number, and to otherwise enhance protection against identity theft, amended referred sequentially to the House Committee on the Judiciary for a period ending not later than Oct. 1, 2004 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X. (H. Rept. 108–685, Pt. 1); and

H. Res. 770, providing for consideration of H.R. 5025, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005 (H. Rept. 108–686). **Page H7137**

Recess: The House recessed at 9:21 a.m. and reconvened at 10 a.m. **Page H7077**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Good Samaritan Volunteer Firefighter Assistance Act of 2003: H.R. 1787, amended, to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies, by a 2/3 yea-and-nay vote of 397 yeas to 3 nays, Roll No. 446; and **Pages H7090–92, H7097**

Volunteer Pilot Organization Protection Act: H.R. 1084, amended, to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations, by a 2/3 yea-and-nay vote of 385 yeas to 12 nays, Roll No. 447. **Pages H7092–95, H7098**

Suspension Failed—Nonprofit Athletic Organization Protection Act of 2003: The House failed to agree to suspend the rules and pass H.R. 3369, to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage or adoption of rules for athletic competitions and practices, by a 2/3 yea-and-nay vote of 217 yeas to 176 nays, Roll No. 445. **Pages H7084–90, H7096–97**

Lawsuit Abuse Reduction Act of 2004: The House passed H.R. 4571, to amend Rule 11 of the Federal Rules of Civil Procedure to improve attorney accountability, by a yea-and-nay vote of 229 yeas to 174 nays, Roll No. 450. **Pages H7080–84, H7098–H7120**

Rejected the DeLauro motion to recommit the bill to the Committee on the Judiciary with instruction to report it back to the House forthwith with an amendment, by a recorded vote of 196 ayes to 211 noes, Roll No. 449. **Pages H7118–20**

The amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill was adopted. **Page H7099**

Rejected the Turner of Texas amendment in the nature of a substitute printed in H. Rept. 108–684, by a yea-and-nay vote of 177 yeas to 226 nays, Roll No. 448. **Pages H7111–18**

H. Res. 766, the rule providing for consideration of the bill was agreed to by a yea-and-nay vote of 228 yeas to 165 nays, Roll No. 444. **Page H7096**

Transportation, Treasury, and Independent Agencies Appropriations Act for FY05: The House began consideration of H.R. 5025, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005. Further consideration will continue tomorrow, September 15.

Pages H7121–continued next issue

Agreed by unanimous consent to limit further amendments offered and the time for debate on such amendments. **(See next issue.)**

Agreed to:

Istook amendment that specifies an amount of funds for operations of the Federal Aviation Administration is to be derived from the Airport and Airway Trust Fund; **Pages H7134–continued next issue**

Istook amendment that inserts a section regarding funds for the General Services Administration's Federal Buildings Fund; **(See next issue.)**

Pombo amendment that prohibits the use of funds for the development or dissemination by the Federal Highway Administration of any version of a programmatic agreement which regards the Dwight D. Eisenhower National System of Interstate and Defense Highways as eligible for inclusion on the National Register of Historic Places; **(See next issue.)**

Oxley amendment (No. 3 printed in the Congressional Record of September 13) that strikes section 216 of the bill regarding the forms of identification accepted by financial institutions (agreed to limit the time for debate on the amendment) (by a recorded vote of 222 ayes to 177 noes, Roll No. 452); and **(See next issue.)**

Kelly amendment that increases funds for the Financial Crimes Enforcement Network for Salaries and Expenses (agreed to limit time for debate on the amendment) (by a recorded vote of 360 ayes to 37 noes, Roll No. 454). **(See next issue.)**

Rejected:

Jefferson amendment that sought to strike section 103 of the bill regarding the Louis Armstrong New Orleans International Airport; and **Pages H7135–36**

DeLauro amendment that sought to prohibit the use of funds to enter into any contract with an incorporated entity where such entity's sealed bid or competitive proposal shows that such entity is incorporated in Bermuda, Barbados, the Cayman Islands, Antigua, or Panama (agreed to limit time for debate on the amendment) (by a recorded vote of 189 ayes to 211 noes, Roll No. 453). **(See next issue.)**

Point of Order sustained against:

page 5 lines 22–26, regarding Payments to Air Carriers; **(See next issue.)**

page 6 lines 13–14, regarding the Airport and Airway Trust Fund; **(See next issue.)**

page 11 line 1 through page 12 line 15, regarding Grants-In-Aid for Airports; **(See next issue.)**

page 14 line 20 through page 15 line 3, regarding administrative expenses for the Federal Highway Administration; **(See next issue.)**

page 15 lines 4–22, regarding the Highway Trust Fund; **(See next issue.)**

page 16 line 4, the phrase ''notwithstanding any other provision of law,''; **(See next issue.)**

page 16 lines 13–20, regarding the rescission of funds for the Highway Trust Fund; **(See next issue.)**

section 123, regarding item number 89 in the Transportation Equity Act for the 21st Century; **(See next issue.)**

section 125, regarding grants for surface transportation projects; **(See next issue.)**

section 127, regarding environmental streamlining activities; **(See next issue.)**

page 24 line 15 through page 25 line 20, regarding administrative expenses for the Federal Motor Carrier Safety Administration; **(See next issue.)**

page 25 line 21 through page 26 line 19, regarding the National Motor Carrier Safety Program; **(See next issue.)**

section 143, regarding implementation of certain sections of the Code of Federal Regulations; **(See next issue.)**

page 27 line 19 through page 28 line 10, regarding Operations and Research for the National Highway Traffic Safety Administration; **(See next issue.)**

page 28 lines 11–22, regarding Operations and Research for the Highway Trust Fund; **(See next issue.)**

page 29 lines 1–14, regarding the National Driver Register; **(See next issue.)**

page 29 line 15 through page 30 line 20, regarding Highway Traffic Safety Grants; **(See next issue.)**

section 151, regarding the National Highway Traffic Safety Administration; **(See next issue.)**

page 32 lines 2–6, regarding Safety and Operations of the Federal Railroad Administration; **(See next issue.)**

page 32 lines 7–10, regarding Railroad Research and Development; **(See next issue.)**

page 32 line 11 though page 33 line 5, regarding the Railroad Rehabilitation and Improvement Program; **(See next issue.)**

page 33 lines 6–10, regarding Next Generation High-Speed Rail; **(See next issue.)**

page 33 line 20 though page 37 line 20, regarding Grants to National Railroad Passenger Corporation; **(See next issue.)**

section 161, regarding the Federal Railroad Administration; **(See next issue.)**

section 162, regarding Amtrak's Annual Report and Budget Request; **(See next issue.)**

page 40 line 13 through page 42 line 15, regarding administrative expenses of the Federal Transit Administration; **(See next issue.)**

page 42 lines 16–21, regarding Formula Grants; **(See next issue.)**

page 42 lines 22–26, regarding University Transportation Research; **(See next issue.)**

page 43 lines 1–16, regarding Transit Planning and Research; **(See next issue.)**

page 43 line 17 through page 44 line 14, regarding Trust Fund Share of Expenses; **(See next issue.)**

page 44 line 15 through page 47 line 19, regarding Capital Investment Grants; **(See next issue.)**

page 47 line 20 through page 48 line 3, regarding Job Access and Reverse Commute Grants; **(See next issue.)**

section 174, regarding the San Francisco Muni Third Street Light Rail Transit project; **(See next issue.)**

section 177, regarding the Oklahoma Transit Association; **(See next issue.)**

page 56 lines 6–20, regarding the Surface Transportation Board; **(See next issue.)**

section 505, regarding the city of Norman, Oklahoma; **(See next issue.)**

section 636, regarding products or services offered by Federal Prison Industries, Inc.; **(See next issue.)**

page 85 lines 10–19, regarding a proviso relating to High Intensity Drug Trafficking Areas Programs; **(See next issue.)**

section 642, regarding section 3716 of title 31, United States Code; **(See next issue.)**

section 643, regarding the Social Security Act; **(See next issue.)**

section 644, regarding section 6402 of the Internal Revenue Code of 1986; **(See next issue.)**

section 407, regarding the Middle River Depot at Middle River, Maryland; **(See next issue.)**

section 408, regarding section 572 of title 40, United States Code; **(See next issue.)**

section 409, regarding the General Services Administration's Federal Buildings Fund; **(See next issue.)**

section 410, regarding Land Conveyance in Nahant, Massachusetts; **(See next issue.)**

section 509, regarding the Buy America Act; **(See next issue.)**

section 510, regarding the purchase of American-made equipment and products; **(See next issue.)**

section 511, regarding products not made in America that are labeled as American-made; **(See next issue.)**

section 628, regarding the Office of Personnel Management; **(See next issue.)**

section 637, regarding government charge cards; **(See next issue.)**

section 640, regarding reports due to Congress; and **(See next issue.)**

section 646, regarding the Limitation on Conversion to Contractor Performance. **(See next issue.)**

H. Res. 770, the rule providing for consideration of the bill was agreed to by a voice vote, after agreeing to order the previous question by a yea-and-nay vote of 235 yeas to 170 nays, Roll No. 451. **Pages H7125–26**

Amendments: Amendments ordered printed pursuant to the rule appear on page H7138, continued next issue.

Quorum Calls—Votes: Seven yea-and-nay votes and four recorded votes developed during the proceedings of today and appear on pages H7096, H7096–97, H7097–98, H7098, H7118, H7119, H71120, H7125, continued in the next issue. There were no quorum calls.

Adjournment: The House met at 9 a.m. and adjourned at 11:44 p.m.

Committee Meetings

ISSUANCE OF SUBPOENAS—E-RATE PROGRAM INVESTIGATION

Committee on Energy and Commerce: Subcommittee on Oversight and Investigations approved a motion authorizing the issuance of a subpoena ad testificandum to each of the following individuals: Judy Green; Emma Epps; Douglas Benit; Quentin R. Lawson; and Carl Muscari, in connection with its investigation of the E-Rate Program.

RATINGS GAME: IMPROVING TRANSPARENCY AND COMPETITION AMONG CREDIT UNION AGENCIES

Committee on Financial Services: Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing entitled ''The Ratings Game: Improving Transparency and Competition Among the Credit Rating Agencies.'' Testimony was heard from public witnesses.

HOMELAND SECURITY: MONITORING NUCLEAR POWER PLANT SECURITY

Committee on Government Reform: Subcommittee on National Security, Emerging Threats and International Relations held a hearing entitled ''Homeland Security: Monitoring Nuclear Power Plant Security.'' Testimony was heard from Luis A. Reyes, Executive Director, Operations, NRC; Jim Wells, Director, Natural Resources and Environment, GAO; and public witnesses.

OVERSIGHT—LESSONS LEARNED FROM 2004 OVERSEAS CENSUS TEST

Committee on Government Reform: Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census held an oversight hearing entitled ''Lessons Learned from the 2004 Overseas Census Test.'' Testimony was heard from Charles Louis Kincannon, Director, Bureau of the Census, Department of Commerce; Patricia Dalton, Director, Strategic Issues, GAO; and public witnesses.

AFRICA—MALARIA AND TUBERCULOSIS

Committee on International Relations: Subcommittee on Africa held a hearing on Malaria and Tuberculosis in Africa. Testimony was heard from E. Anne Peterson, Assistant Administrator, Bureau for Global Health, AID, Department of State; and public witnesses.

U.S.-EUROPEAN COOPERATION ON COUNTERTERRORISM

Committee on International Relations: Subcommittee on Europe and the Subcommittee on International Terrorism, Nonproliferation and Human Rights held a joint hearing on U.S.-European Cooperation on Counterterrorism: Achievements and Challenges. Testimony was heard from William T. Pope, Principal Deputy Coordinator, Counterterrorism, Department of State; S. Stewart Verdery, Jr., Assistant Secretary, Policy and Planning, Department of Homeland Security; Bruce Swartz, Deputy Assistant Attorney General, Criminal Division, Department of Justice; and Gijs De Vries, Counter-terrorism Coordinator, European Union.

OVERSIGHT—DUE PROCESS AND THE NCAA

Committee on the Judiciary: Subcommittee on the Constitution held an oversight hearing on Due Process and the NCAA. Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES; PRIVATE RELIEF MEASURES

Committee on the Judiciary: Subcommittee on Immigration, Border Security, and Claims approved for full Committee action the following bills: H.R. 775, Security and Fairness Enhancement for America Act of 2003; and H.R. 4306, amended, To amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment.

The Subcommittee also approved private relief measures.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on National Parks, Recreation and Public Lands held a hearing

on the following bills: H.R. 305, Kate Mullany National Historic Site; H.R. 2237, 225th Anniversary of the American Revolution Commemoration Act; H.R. 3258, Hibben Center Act; H.R. 4285, To provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport; H.R. 4667, Tapoco Project Licensing Act of 2004; H.R. 4683, Gullah/Geechee Cultural Heritage Act; H.R. 4808, To provide for a land exchange involving private land and Bureau of Land Management land in the vicinity of Holloman Air Force Base, New Mexico, for the purpose of removing private land from the required safety zone surrounding munitions storage bunkers at Holloman Air Force Base; H.R. 4817, To facilitate the resolution of a minor boundary encroachment on lands of the Union Pacific Railroad Company in Tipton, California, which were originally conveyed by the United States as part of the right-of-way granted for the construction of transcontinental railroads; and H.R. 4887, Cumberland Island Wilderness Boundary Adjustment Act of 2003. Testimony was heard from Representatives McNulty, Hinchey, Wilson of New Mexico, Clyburn and Kingston; the following officials of the Department of the Interior: Sue Masica, Associate Director, Park Planning, Facilities, and Lands, National Park Service; and Tom Lonnie, Assistant Director, Minerals, Realty and Resource Protection, Bureau of Land Management; and public witnesses.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS FISCAL YEAR 2005

Committee on Rules: Granted, by voice vote, an open rule providing 1 hour of general debate on H.R. 5025, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. Under the rules of the House the bill shall be read for amendment by paragraph. The rule authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the Congressional Record. Finally, the rule provides one motion to recommit with or without instructions.

HOMELAND SECURITY: 9/11 COMMISSION AND THE COURSE AHEAD

Select Committee on Homeland Security: Held a hearing entitled ''Homeland Security: The 9/11 Commission and the Course Ahead.'' Testimony was heard from Tom Ridge, Secretary of Homeland Security.

COMMITTEE MEETINGS FOR WEDNESDAY, SEPTEMBER 15, 2004

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: business meeting to mark up proposed legislation making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2005, proposed legislation making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and proposed legislation making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2005, 10:30 a.m., SH–216.

Committee on Commerce, Science, and Transportation: to hold hearings to examine impacts of climate change, 10 a.m., SR–253.

Committee on Energy and Natural Resources: business meeting to consider pending calendar business, 9:30 a.m., SD–366.

Committee on Finance: business meeting to consider a substitute to S. 333, to promote elder justice, and the nomination of J. Russell George, of Virginia, to be Inspector General for Tax Administration, Department of the Treasury, 10 a.m., SD–215.

Committee on Foreign Relations: to hold hearings to examine accelerating U.S. assistance to Iraq, 9:30 a.m., SD–419.

Committee on Indian Affairs: business meeting to consider pending calendar business, 10 a.m., SR–485.

House

Committee on Financial Services, Subcommittee on Financial Institutions and Consumer Credit, hearing entitled ''Financial Services Issues: A Consumer's Perspective,'' 10 a.m., 2128 Rayburn.

Committee on Government Reform, to mark up the following measures: H.R. 480, To redesignate the facility of the United States Postal Service located at 747 Broadway in Albany, New York, as the ''United States Postal Service Henry Johnson Annex;'' H.R. 4046, To designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the ''Sergeant Riayan A. Tejada Post Office;'' H.R. 4807, To designate the facility of the United States Postal Service located at 140 Sacramento Street in Rio Vista, California, as the ''Adam G. Kinser Post Office Building;'' H.R. 4847, To designate the facility of the United States Postal Service located at 560 Bay Isles Road in Longboat Key, Florida, as the ''Lieutenant General James V. Edmundson Post Office Building;'' H.R. 4968, To designate the facility of the United States Postal Service located at 25 McHenry Street in Rosine, Kentucky, as the ''Bill Monroe Post Office;'' H.R. 5027, To designate the facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, as the ''Specialist Eric Ramirez Post Office;'' H.R. 5039, To designate the facility of the United States Postal Service located at United States Route 1 in Ridgeway, North Carolina, as the ''Eva Holtzman Post Office;'' H. Con. Res. 461, Expressing the sense of Congress regarding the importance of life insurance, and recognizing and supporting National Life Insurance Awareness Month; H. Con. Res. 464, Honoring the 10 communities selected to receive the 2004 All-America

City Award; H. Res. 755, Supporting the goals and ideals of National Long-Term Care Residents' Rights Week and recognizing the importance to the Nation of residents of long-term care facilities, including senior citizens and individuals living with disabilities; H. Res. 761, Congratulating Lance Armstrong on his record-setting victory in the 2004 Tour de France; H. Con. Res. 489, Supporting the goals and ideals of National Preparedness Month; and H. Res. 641, Supporting the goals and ideals of Pancreatic Cancer Awareness Month; and to hold a hearing entitled "Making Networx Work: An Examination of GSA's Continuing Efforts to Create a Modern, Flexible and Affordable Government Wide Telecommunications Program; and to consider a consulting contract, 10 a.m., 2154 Rayburn.

Subcommittee on Government Efficiency and Financial Management, oversight hearing entitled "The Evolving Role of the Federal Chief Financial Officer," 1 p.m., 2247 Rayburn.

Subcommittee on Human Rights and Wellness, hearing entitled "Conquering Obesity: the U.S. Approach to Combating this National Health Crisis," 2 p.m., 2154 Rayburn.

Committee on the Judiciary, to mark up the following bills: H.R. 2028, Pledge Protection Act of 2003; and H.R. 4341, Postal Accountability and Enhancement Act, 10 a.m., 2141 Rayburn.

Subcommittee on the Constitution, to consider a motion to authorize the issuance of a subpoena to Custodian of Records, United States Commission on Civil Rights, 12 noon, 2141 Rayburn.

Committee on Resources, to mark up the following measures: H. Res. 556, Congratulating the United States Geological Survey on its 125th Anniversary; H.R. 2941, Colorado River Indian Reservation Boundary Correction Act; H.R. 3207, Manhattan Project National Historical Park Study Act of 2003; H.R. 3210, Little Butte/Bear Creek Subbasins Water Feasibility Act; H.R. 3258, Hibben Center Act; H.R. 3982, To direct the Secretary of Interior to convey certain land held in trust for the Paiute Indian Tribe of Utah to the City of Richfield, Utah; H.R. 4066, Chickasaw National Recreation Area Land Exchange Act of 2004; H.R. 4282, Native Hawaiian Government Reorganization Act of 2004; H.R. 4258, To provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport; H.R. 4389, To authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California; H.R. 4469, Angel Island Immigration Station Restoration and Preservation Act; H.R. 4579, Truman Farm Home Expansion Act; H.R. 4588, Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2004; H.R. 4596, To amend Public Law 97–435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009; H.R. 4667, Tapoco Project Licensing Act of 2004; H.R. 4775, To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the El Paso, Texas, water reclamation, reuse, and desalinization project; H.R. 4806, Pine Springs Land Exchange Act; H.R. 4808, To provide for a land exchange involving private land and Bureau of Land Management land in the vicinity of Holloman Air Force Base, New Mexico, for the purpose of removing private land from the required safety zone surrounding munitions storage bunkers at Holloman Air Force Base; H.R. 4817, to facilitate the resolution of a minor boundary encroachment on lands of the Union Pacific Railroad Company in Tipton, California, which were originally conveyed by the United States as part of the right-of-way granted for the construction of transcontinental railroads; H.R. 4838, Healthy Forests Youth Conservation Corps Act of 2004; H.R. 4893, To authorize additional appropriations for the Reclamation Safety of Dams Act of 1978; H.R. 4984, Potash Royalty Reduction Act of 2004; H.R. 5009, Montana Water Contracts Extension Act of 2004; S. 434, Idaho Panhandle National Forest Improvement Act of 2003; S. 551, Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003; and S. 1814, To transfer federal lands between the Secretary of Agriculture and the Secretary of the Interior, 10 a.m., 1324 Longworth.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, to mark up a measure to Further Protect the U.S. Aviation System from Terrorist Attacks, 10 a.m., 2167 Rayburn.

Select Committee on Homeland Security, hearing entitled "Combating Terrorism: The Role of Broadcast Media," 10:30 a.m., 2318 Rayburn.

Joint Meetings

Commission on Security and Cooperation in Europe: to hold hearings to examine how the U.S. can best utilize the Organization for Security and Cooperation in Europe to advance its political, security and humanitarian interests, 10 a.m., 334 CHOB.

Next Meeting of the SENATE

9:45 a.m., Wednesday, September 15

Senate Chamber

Program for Wednesday: Senate will begin consideration of S. 2674, Military Construction Appropriations, pursuant to the order of September 14, 2004.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, September 15

House Chamber

Program for Wednesday: Continue consideration of H.R. 5025—Transportation, Treasury, and Independent Agencies Appropriations Act for Fiscal Year 2005.

Consideration of Suspension:

H. Res. 771—Expressing the thanks of the House of Representatives and the Nation for the contributions to freedom made by American POW/MIAs on National POW/MIA Recognition Day.

Extensions of Remarks, as inserted in this issue

HOUSE

(House proceedings for today will be continued in the next issue of the Record.)

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